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Rules of Governmental Agencies

Volume 23, Issue 23 — June 04, 1999

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Editor's Note: The Cumulative Index and Sections Affected Index will be printed on a quarterly basis. The printing schedule for the quarterly and annual indexes are as follows:

April 16, 1999 - Issue 16: Through	March 31, 1999
July 16, 1999 - Issue 29: Through	June 30, 1999
October 15, 1999 - Issue 42: Through	September 30, 1999
January 14, 2000 - Issue 3: Through	December 31, 1999 (Annual)

REGISTER PUBLICATION SCHEDULE 1999

Issue #	Copy Due by 4:30 p.m.	Publication Date	Issue #	Copy Due by 4:30 p.m.	Publication Date
Issue 1	December 21, 1998	January 4, 1999 *	Issue 28	June 28	July 9
Issue 2	December 28	January 8	Issue 29	July 6 ***	July 16
Issue 3	January 4, 1999	January 15	Issue 30	July 12	July 23
Issue 4	January 11	January 22	Issue 31	July 19	July 30
Issue 5	January 19	January 29	Issue 32	July 26	August 6
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Issue 7	February 1	February 16	Issue 34	August 9	August 20
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Issue 27	June 21	July 2	Issue 1	December 27	January 7, 2000

* Monday following a state holiday.

** Tuesday following a state holiday.

*** Since the state holiday is a Monday, the deadline is Noon on Tuesday.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Franchise Disclosure Act2) Code Citation: 14 Ill. Adm. Code 2003) Section Numbers: Proposed Action:

200.100 Amend
 200.101 Repeal
 200.104 Amend
 200.110 Amend
 200.112 Amend
 200.114 Amend
 200.115 Amend
 200.116 New
 200.117 New
 200.118 New
 200.119 New
 200.120 New
 200.201 Amend
 200.202 Amend
 200.301 Amend
 200.304 Amend
 200.305 Amend
 200.306 Repeal
 200.402 New
 200.402 Amend
 200.407 Amend
 200.408 Amend
 200.409 Amend
 200.411 Amend
 200.500 Amend
 200.502 Amend
 200.503 Amend
 200.507 Amend
 200.600 Amend
 200.602 Repeal
 200.603 Repeal
 200.604 Repeal
 200.605 Repeal
 200.610 New
 200.800 Repeal
 200.900 Amend
 APPENDIX A Amend
 ILLUSTRATION A Amend
 ILLUSTRATION B Amend
 ILLUSTRATION C Amend
 ILLUSTRATION D Amend
 ILLUSTRATION E Amend
 ILLUSTRATION F Amend
 ILLUSTRATION G Amend
 ILLUSTRATION H Amend
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 ILLUSTRATION K Amend
 ILLUSTRATION L Amend

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NOTICE OF PROPOSED AMENDMENTS

ILLUSTRATION M Amend
 ILLUSTRATION N Amend
 APPENDIX B Amend
 ILLUSTRATION B Amend
 ILLUSTRATION C Amend
 ILLUSTRATION D Amend
 APPENDIX C Amend
 ILLUSTRATION A Amend
 ILLUSTRATION B Amend
 ILLUSTRATION C Amend
 APPENDIX D Amend
 ILLUSTRATION A Amend
 ILLUSTRATION C Amend
 APPENDIX E Amend
 APPENDIX F Amend
 ILLUSTRATION A Amend
 ILLUSTRATION B Amend

4) Statutory Authority: 815 ILCS 705/32 Franchise Disclosure Act of 19875) A Complete Description of the Subjects and Issues Involved: Sections 200.104, 305, 600(a)(7), 602 and 800 are being repealed as a result of amendments to the Franchise Disclosure Act that were effective July 24, 1998.

Definitions in Sections 200.104, 110, 114, 115-120 are amended or added to clarify various terms in the Franchise Disclosure Act.

Exemption and Registration requirements for franchisors and brokers are simplified in Sections 200.201, 202, 600, 603, 604, 610 and 900. Section 200.202 also assists franchisors and brokers in avoiding technical violations of the Act and provides for an exemption for large franchisors meeting net worth, experience and disclosure requirements.

Section 200.306 deals with Internet franchise offers to avoid having an "offer" occur if an unregistered franchise does not take further steps to sell before registering.

Sections 200.402 and 408 bring the rules into conformity with the Act.

Sections 200.407, 409, 411, 503 and 507 make gender changes.

Sections 200.500 and 502 will provide more choices for the franchisor when it is necessary for underfinanced franchisors to provide financial assurance.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

NOTICE OF PROPOSED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER II: ATTORNEY GENERAL

PART 200

FRANCHISE DISCLOSURE ACT

SUBPART A: DEFINITIONS

Section	Act
200.100	Disclosure Statement (Repealed)
200.101	Marketing Plan or System
200.102	Substantially Associated
200.103	Franchise Fee
200.104	Absence of Fee Exclusion
200.105	Bona Fide Wholesale and Retail Price
200.106	Established Market
200.107	Indirect Franchise Fee
200.108	Consideration
200.109	Material Change
200.110	Franchise Broker (Repealed)
200.111	Administrator
200.112	Correspondent
200.113	Negotiated Change
200.114	Tradeshows Offer
200.115	Franchise Broker
200.116	Cooperative
200.117	UFOC Disclosure Requirements
200.118	Notification
200.119	Time Periods Ending on Saturday, Sunday or Holiday
200.120	

SUBPART B: OPINIONS, EXEMPTIONS

Section	Interpretive Opinions and No Action Letters
200.200	Order of Exemption
200.201	Exemptions by Rule
200.202	

SUBPART C: ADVERTISING

Section	Deceptive Practices
200.300	Statements of Profitability
200.301	Opinions of Counsel
200.302	Inconsistencies with Disclosure Statement
200.303	Dollar Statements on Sales or Income
200.304	Filing Requirements (Repealed)
200.305	

NOTICE OF PROPOSED AMENDMENTS

7) Does this rulemaking contain an automatic repeal date? No
8) Does this rulemaking contain incorporations by reference? Yes, Sections 200.201(a)(5) and 202(d)(3).

9) Are there any other proposed rulemakings pending on this Part? No

10) Statement of Statewide Policy Objectives: Neither creates nor modifies a State mandate within the meaning of 30 ILCS 805/3(b) of the State Mandates Act.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: During time periods by writing or faxing:

Robert Tingler
Office of the Attorney General
100 West Randolph Street, 12-178
Chicago, Illinois 60601
312/814-3892
Fax: 312/814-2549

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Franchisors and prospective franchisees, but not small municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: Some reporting decreased, none was added.
- C) Types of professional skills were necessary for compliance: Same extensive experience previously required to comply with UFOC Guidelines and Franchise Act.

13) Regulatory Agenda on which this rulemaking was summarized: July 1998 and January 1999

The full text of the Proposed Amendment begin on the next page:

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NOTICE OF PROPOSED AMENDMENTS

Internet Franchise Offers

SUBPART D: HEARINGS

Section
200.400 Preamble
200.401 Party
200.402 Hearing Officer
200.403 Office
200.404 Hearing Requests
200.405 Notice of Hearing
200.406 Requirements Relating to Continuances
200.407 Rules of Evidence in Hearings
200.408 Record of Proceedings
200.409 Record of Hearing
200.410 Duties of Hearing Officer
200.411 Final Administrative Decision

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,
ESCROW, GUARANTY, SURETY BOND

Section
200.500 Assurance of Financial Ability to Fulfill Obligations
200.501 Escrow, Guaranty, Surety Bond (Repealed)
200.502 Escrow of Funds
200.503 Release of Escrowed Funds
200.504 Guarantees of Performance
200.505 Performance or Surety Bond
200.506 Certificate of Deposit
200.507 Release of Certificate of Deposit
200.508 Deferral of Franchise Fee

SUBPART F: REGISTRATION REQUIREMENTS

Section
200.600 Original Registration
200.601 Extension of Registration Period (Repealed)
200.602 Notification of Registration (Repealed)
200.603 Annual Report
200.604 Amendment Application
200.605 Final Circular Submission
200.606 Multiple Filings
200.607 Public Examination and Photocopying of Disclosure Statements
200.608 Jurisdiction and Venue
200.609 Waiver
200.610 Denial of Initial Registration

SUBPART G: AREA FRANCHISE AND SUBFRANCHISE REGISTRATION

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REQUIREMENTS-RESPONSIBILITIES FOR FILING

Section
200.700 Definitions (Repealed)
200.701 Number of Applications
200.702 Responsibility for Filing the Application
200.703 Time for Filing the Application (Repealed)

SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

Section
200.800 Failure to Diligently Prosecute Application (Repealed)

SUBPART I: REGISTRATION OF FRANCHISE BROKERS

Section
200.900 Documents to File
200.901 Notice of Broker Registration

SUBPART J: REGISTRATION OF SALES PERSONS

Section
200.1000 Documents to File (Repealed)
200.1001 Notice of Broker Registration (Repealed)

APPENDIX A Franchise Registration Forms

ILLUSTRATION A Uniform Franchise Registration Notification Application

ILLUSTRATION B Supplemental Information
ILLUSTRATION C Sales Agent Salesperson Disclosure Form
ILLUSTRATION D Uniform Consent to Service of Process
ILLUSTRATION E Corporate Acknowledgment
ILLUSTRATION F Individual or Partnership Acknowledgment
ILLUSTRATION G Certification Page
ILLUSTRATION H Consent of Accountant
ILLUSTRATION I UPOC Cross Reference Sheet (Repealed)
ILLUSTRATION J FTC Cross Reference Sheet (Repealed)
ILLUSTRATION K Acknowledgment of Receipt (Suggested Format) (Repealed)
ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

ILLUSTRATION M Joint Venture Agreement & Acknowledgment
ILLUSTRATION N Limited Partnership Acknowledgment

APPENDIX B Franchise Broker Registration Forms

ILLUSTRATION A Franchise Broker Registration Application Page
ILLUSTRATION B Broker Authorization
ILLUSTRATION C Franchise Broker Surety Bond
ILLUSTRATION D Broker Guaranty of Performance

APPENDIX C Escrow Forms

ILLUSTRATION A Escrow Agreement

ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds

ILLUSTRATION C Franchisee's Petition for Release of Escrowed Funds

APPENDIX D Guaranty Forms

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ILLUSTRATION A Guaranty of Performance
ILLUSTRATION B Corporate Resolution
ILLUSTRATION C Secretary's Certificate
APPENDIX E Surety Bond
APPENDIX F Certificate of Deposit Forms
ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit
ILLUSTRATION B Franchisee's Petition For Release of Certificate of Deposit
AUTHORITY: Implementing and authorized by the Franchise Disclosure Act of 1987 [815 ILCS 705].

SOURCE: Filed April 25, 1977, effective May 5, 1977, by the Office of the Secretary of State; transferred to the Attorney General by P.A. 80-31, effective February 28, 1978; rules repealed, new rules adopted and codified at 8 Ill. Reg. 1367, effective January 13, 1984; emergency amendments at 12 Ill. Reg. 1124, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 9424, effective May 18, 1988; amended at 13 Ill. Reg. 15365, effective September 19, 1989; peremptory amendment at 18 Ill. Reg. 2522, effective January 31, 1994; amended at 19 Ill. Reg. 16950, effective January 1, 1996; expedited correction at 20 Ill. Reg. 4458, effective January 1, 1996; amended at 23 Ill. Reg. _____, effective _____.

SUBPART A: DEFINITIONS

Section 200.100 Act

The "Act" means the Franchise Disclosure Act of 1987 [815 ILCS 705], as amended, from time to time, (P.A. 85-551), effective January 1, 1987, hereinafter cited as Section 1 through Section 46 of the Act.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.101 Disclosure Statement (Repealed)

The Administrator deems the following disclosure formats to be in full compliance with the disclosure requirements of Section 5 of the Act. No format other than the following may be used, and the following two formats may not be intermingled:

- a) The Uniform Franchise Offering Circular (UFOC) amended by the North American Securities Administrators Association, Inc. on April 25, 1993 without further additions or amendments in accordance with the Federal Trade Commission Regulation Rule entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures" (16 CFR 436) as of January 1, 1994; and
- b) The disclosure requirements of the Federal Trade Commission Trade Regulation Rule as of 1993, entitled "Disclosure Requirements and Prohibitions Concerning Franchising and Business Opportunity Ventures"

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

(16 CFR 436)
(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 200.104 Franchise Fee

A "franchise fee" within the meaning of Section 3(14) of the Act may be present regardless of the designation given to or the form of the fee, whether payable in lump sum or installments, definite or indefinite in amount, or partly or wholly contingent on future sales, profits, or purchases for of the franchise business, or the sale or transfer of the franchisee's business. A transfer fee will not be considered a franchise fee if it represents reasonable expenses incurred in connection with the transfer.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.110 Material Change

A change in information contained in the disclosure statement or omission of fact is "material" within the meaning of Section 3(14) of the Act if there is a substantial likelihood that a reasonable prospective franchisee would consider it significant in making a decision to purchase or not purchase the franchise. Without limitation, examples of changes which could be material include:

- a) Any increase or decrease in the initial or continuing fees charged by the franchisor;
- b) The termination, cancellation, failure to renew or reacquisition of a significant number of franchises since the most recent effective date of the Disclosure Statement;
- c) A change in the franchisor's management;
- d) A change in the franchisor's or franchisee's obligations under the franchise or related agreements;
- e) A decrease in the franchisor's income or net worth;
- f) Limitations or significant prospective limitations regarding sources of supply which are known to or should reasonably be anticipated by the franchisor;
- g) Additional litigation or a significant change in the status of litigation including:
 - 1) the filing of an amended complaint alleging or involving violations of any franchise law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or breach of contract;
 - 2) the entry of any injunctive or restrictive order relating to the franchisor or the entry of any injunction under any Federal state or Canadian franchise securities anti-trust trade regulation or trade practice law;
 - 3) the entry of a judgment that has or would have any significant

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NOTICE OF PROPOSED AMENDMENTS

financial--impact--on--the--franchisor--Such--a--judgment--is considered to have significant financial impact if it equals 15% or more of the current assets of the franchisor--and--its subsidiaries--on--a--consolidated--basis--and

b) The reincorporation of the franchisor or its merger into a corporation other than the registrant--in--a--merger--where--the--surviving corporation changes its name to that of the original registrant--a material change has still occurred.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.112 Administrator

"Administrator" as used in this Part these Rules means the Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, (217)782-1090. Conferences may be arranged by appointment. Persons with questions concerning the Act are encouraged to telephone the Franchise Bureau Division.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.114 Negotiated Change

As stated in Section 11 of the Act, an amendment is not required when changes in the franchise agreement are made pursuant to negotiations between the franchisor and franchisee. However, if the same change is consistently made in additional consecutive franchise sales and it is a material change, it is considered to be a permanent change in the franchise agreement and an Amendment reflecting the change must be filed within the applicable time period.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.115 Tradeshow Offer

"offer" or "offer to sell" includes participation in a trade show by a franchisor which is attended by prospective franchisees. A franchisor shall not participate as an exhibitor at a trade show or otherwise attempt to solicit franchise sales at a trade show held in Illinois from Illinois residents or persons desiring an Illinois franchise site, unless the franchisor is registered with the Administrator or is otherwise exempt from registration. Accepting the name, address and phone number of prospective franchisees for contact after registration does not constitute an offer or offer to sell.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200.116 Franchise Broker

A person shall be deemed to be a franchise broker engaged in the business of representing a franchisor in offering for sale or selling a franchise within the meaning of Section 3(21) of the Act, unless otherwise exempt, if such person provides a prospective franchisee with information about specific franchises other than the franchisor's name, address and phone number. The expectation or acceptance of a fee contingent upon a franchise sale shall be considered as evidence of franchise broker status unless such fee results from an isolated transaction as defined in Section 200.202.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 200.117 Cooperative

"Cooperative" means a for-profit organization owned and operated, or a nonprofit organization operated, by the wholesale or retail members it serves. A cooperative that operates as, or subsequently purchases, a franchise system must register that system under the Franchise Disclosure Act if the system franchisees are not members of the cooperative with control relatively equal to the other cooperative members.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 200.118 UPOC Disclosure Requirements

References in this Part to a Uniform Franchise Offering Circular (UFOC), disclosure statement, offering circular, or prospectus means a document prepared in compliance with the UFOC Guidelines as adopted by the North American Securities Administrators Association (NASAA) and set forth in Section 200. Appendix A, Illustration L.

(Source: Added at 23 Ill. Reg. _____, effective _____)

Section 200.119 Notification

Notification in Section 10 of the Act means the listed documents required to be filed by the franchisor under Section 200.600 and UFOC General Instruction 11.D. (Source: Added at 23 Ill. Reg. _____, effective _____)

Section 200.120 Time Periods Ending on Saturday, Sunday or Holiday

Whenever the Act establishes a filing deadline, whether based upon calendar

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NOTICE OF PROPOSED AMENDMENTS

"days" or "business days" and the date due falls upon a Saturday, Sunday or Holiday when the Office of the Administrator is closed to the public, the party affected is excused from compliance until the next business day when the office is open to the public.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART B: OPINIONS, EXEMPTIONS

Section 200.201 Order of Exemption

a) Pursuant to Section 9 of the Act, the Administrator may by Order grant exemptions from the registration and disclosure requirements of the Act. The Administrator will consider whether to issue such an Order upon submission of the following:

- 1) A cover letter describing the basis for the exemption by reference to this Section and to Section 9 of the Act, a list of administrative agencies that have issued or denied exemptions or opinions with copies of the exemptions or opinions, and a statement of the number of franchisees the franchisor intends to sell in Illinois in the ensuing twelve months;
- 2) A description and history of the applicant; the franchise fees and initial investment; and the proposed number of franchise sales in Illinois within the ensuing twelve months;
- 3) A description of the applicant's litigation history as stated in item 3 of the Uniform Franchise Offering Circular (UFOC) which is attached as Appendix A; illustration B;
- 4) A description of any bankruptcy petition filed by or against the franchisor, its officers, directors or predecessors within the last fifteen years;
- 5) A copy of the franchise agreement;
- 6) Copies of all promotional materials;
- 7) A list showing of all Illinois franchise sales and advertisements in Illinois since the most recent UFOC submitted with the exemption application January 17, 1994;
- 8) A list of administrative agencies which have issued or denied exemptions or opinions and copies of the exemptions or opinions;
- 9) A statement of the number of company owned and franchised units in the United States and in Illinois;
- 10) A statement of the number of franchisees the franchisor intends to sell in Illinois in the following one year;
- 31) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular (UFOC (Appendix A, Illustration L) if required by 16 CFR 436 as of 1983;
- 412) A certification page (Appendix A, Illustration G); and of facts;
- 513) Financial statements prepared in accordance with Generally Accepted Accounting Principles (GAAP) for the most recent fiscal

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year if the franchisor is exempt under 16 CFR 436.

- b) Exemption requests will be granted only when in the public interest. An exemption is considered in the public interest:
 - 1) If the franchisor intends to sell only one or two franchises in Illinois in the ensuing twelve months; and
 - 2) If the litigation and bankruptcy disclosure history described in subsection (4) above is not materially adverse to the interests of prospective franchisees; and
 - 3) If the franchisor agrees to timely provide the franchisee with a UFOC disclosure statement Federal Trade Commission prospectus if required by 16 CFR 436 as of 1983; within the time period required by the Federal Trade Commission; and
 - 4) If the franchisor obtains a letter from the prospective franchisee's attorney, after issuance of the exemption but within the time period described in Section 5(2) of the Act, stating that he has explained the Act to his client, and the client does not object to issuance of the exemption, and forwards the letter to the Administrator. Prior to procurement of this letter, but after issuance of the order of exemption, the franchisor may solicit franchisees but may not have a contract signed or require a prospective franchisee or subfranchisor to pay consideration.
- c) Application for exemption from Sections 5 and 10 of the Act may be made with regard to the offer and sale of a single unit franchise in which the actual minimum initial investment is in excess of \$1,000,000. The Administrator will consider whether to issue such an Order upon submission of the following:
 - 1) The information required by subsection (a) of this Section;
 - 2) A list showing all Illinois franchise sales since the most recent UFOC submitted with the exemption application;
 - 3) Application documents required by Section 200.600(a)(1) through (7).
- d) Every registered franchise and any franchisor exempt under this Section must provide the prospective franchisee with a UFOC disclosure document unless specifically excused from this requirement by the Administrator.
 - 3) A cover letter describing the bases for the exemption by reference to this Section and to Section 9 of the Act;
 - 2) A description and history of the applicant and a statement showing all franchise fees and the initial investment required such that the total investment is in excess of \$1,000,000;
 - 3) A statement of the number of franchisees the franchisor intends to sell in Illinois in the following year;
 - 4) A description of any litigation brought by a franchisee or franchise regulatory agency against the franchisor during the prior two years; and
 - 5) A Federal Trade Commission prospectus or a Uniform Franchise Offering Circular.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.202 Exemptions by Rule

a) The offer and sale of a franchise to a bank, savings institution, trust company, interstate carrier or insurance company is exempt from Sections 5 and 10 of the Act.

b) Isolated Transaction

1) If a referral source provides the name of a prospective franchisee to a franchisor and receives a referral or broker fee, but the person making the referral has no involvement in presenting the advantages of that particular franchise system, handles no franchisee payments owed to the franchisor, and has made no referral to that franchisor during the preceding 12 months, then such an isolated transaction does not require registration as a franchise broker, and does not require the franchisor to provide disclosures concerning the person making the referral in the franchisor's UFOC.

2) If a franchisor obtains a prospective franchisee from an unregistered broker, the franchisor must verify the representations made to the prospect by the broker and that all required disclosure has been provided. No referral fee or commission shall be paid to the broker until such broker is properly registered with the Administrator or is found to be exempt from registration.

c) An officer, director or employee of an affiliate or related company of the franchisor is exempt from the Broker Application and Registration requirements of Section 13 of the Act, provided that the franchisor files a Sales Agent Disclosure Form with the Administrator for any such person. See Appendix A, Illustration C.

d) Franchise Trade Show Promoters and persons who organize or manage events, shows or facilities in which franchisees are advertised, offered or otherwise promoted are hereby exempt from the requirements of Section 13 of the Act if:

- 1) the person does not receive a fee or other consideration from the exhibitors participating in such event or show other than exhibitor fees; and
- 2) any rent, exhibitor fees or other consideration paid for use of the exhibit space is not contingent or based upon the sale of franchises by the exhibitors or show promoters; and
- 3) the person is in compliance with 16 CFR 436, as amended through May 1, 1999, or is in compliance with an exemption issued by the Federal Trade Commission (contact FTC Consumer Response Center, 600 Pennsylvania Ave. N.W., Washington D.C. 20580).

e) Large Franchisor Exemption

The offer and sale of a franchise meeting the following requirements is exempt from Sections 5(1) and 10 of the Act:

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1) Net Worth. The franchisor and, when applicable, a parent corporation or other business entity owning at least 80 percent of the franchisor must meet one of the following net worth requirements according to the financial statements for the most recent fiscal year just ended:

- A) The franchisor has a net worth on a consolidated basis of not less than \$5,000,000, according to its audited financial statement; or
 - B) The franchisor has a net worth of not less than \$1,000,000, and its parent has a net worth of not less than \$5,000,000, according to the audited financial statements of the franchisor and its parent, respectively; or
 - C) The franchisor has a net worth not less than \$1,000,000, according to its unaudited financial statement, and the parent has a net worth on a consolidated basis of not less than \$5,000,000 according to its audited financial statement, and the parent absolutely and unconditionally guarantees to assume the duties and obligations of the franchisor under the franchise agreement should the franchisor become unable to perform its duties and obligations.
- 2) Experience. The franchisor or its parent corporation or other business entity owning at least 80 percent of the franchisor or the franchisor's predecessor (as defined by UFOC Guidelines), or any combination thereof, has, throughout the five year period immediately preceding the offer and sale of the franchise, at least 25 franchisees conducting business in its franchise system. Up to three years of the required experience can be fulfilled by demonstrating that the franchisor has conducted business that is substantially the same as the subject of the franchise.
- 3) Disclosure. The franchisor agrees to timely provide a Federal Trade Commission prospectus or UFOC offering circular to each prospective franchisee.
- 4) Loss of exemption. This exemption shall immediately terminate if:
- A) Franchisor's net worth requirement is no longer met; or
 - B) Franchisor has fewer than 25 active franchisees; or
 - C) The franchisor was dependent upon another corporation or business entity to qualify for this exemption and such qualifying support has been withdrawn or is otherwise no longer available.
- 5) Required Documentation. Franchisor must submit the following documents to the Administrator to secure this exemption:
- A) A cover letter stating: how the net worth requirement has been met; specific information demonstrating that the experience requirement has been met; that the franchisor agrees to timely provide a UFOC or FTC disclosure document to each prospective franchisee; that the Illinois Franchise

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Disclosure Act applies to all Illinois franchise transactions; and that this exemption will immediately terminate for the reasons stated above;

- B) Franchisor's current UFOC or FTC disclosure circular;
- C) A Uniform Consent to Service of process and the appropriate acknowledgment (Section 200 Appendix B, Illustrations D and E or F);
- D) A Certification Page (Appendix A, Illustration G) verifying that the documents submitted are true and correct.

6) Franchisor must renew its exemption annually.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.301 Statements of Profitability

Every advertisement considered in its totality should be free from ambiguity and in whatever form presented, will be considered in its entirety as it would be read and understood by those to whom it is directed. No advertising in connection with the offer or sale of franchises shall contain the statement that the purchase of a franchise is a safe investment, is free from risk of loss or failure, or assures earnings or profit. The text of the advertisement may employ words such as "success", "profits", or "profit potential" so long as such terms are reasonably qualified.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.304 Dollar Statements on Sales or Income

Any advertisement which suggests a range or specific level of sales, income, gross or net profits, or other types of earnings claims must be consistent with and conform to the guidelines contained in Item 19 of the UFOC. Uniform Franchise Offering Circular (See Section 200 Appendix A, Illustration L.) Such earnings claims must be consistent with information contained in the registered disclosure statement.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.305 Filing Requirements (Repealed)

- a) All advertising and promotional materials, including transcripts of radio, television, and other audio-visual advertising, shall be filed with the Administrator at least five (5) days prior to the first publication or distribution or use in Illinois as required by Section 30 of the Act; this requirement does not apply to advertisements in a newspaper or other publication of general interest; regular and paid

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circulation which has had more than two-thirds of its circulation outside this state during the past 12 months, or to radio or television programs originating outside Illinois which are received in Illinois.

- b) If the advertisement is not in compliance with this Subpart of the Act, the Administrator will notify the franchisor of any objections within five (5) days of receipt of the advertisement. Failure of the Administrator to respond within five (5) days shall not constitute approval of the contents of the advertisement, but shall preclude the Administrator from objecting on grounds of the five-day filing requirement in Section 30 of the Act.

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 200.306 Internet Franchise Offers

Any communication made through the Internet, the World Wide Web, or any other similar proprietary or common carrier electronic delivery system, of an offer to sell a franchise ("Internet Offer") is exempt from the registration provisions of the Illinois Franchise Disclosure Act if the franchisor limits contact with prospective Illinois franchisees to keeping a prospect list and notifying such prospects that, until the franchisor registers the franchise in Illinois, no further discussion about the franchise opportunity can take place.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART D: HEARINGS

Section 200.402 Hearing Officer

"Hearing Officer" means an independent person designated by the Administrator to preside at the hearing. Such person must meet the following standards and qualifications:

- a) be of high integrity, good personal reputation, and impartial;
- b) be a member in good standing of the Bar of Illinois;
- c) be familiar with the rules of evidence applied in civil cases in the circuit courts of Illinois and with the Act and the Rules promulgated thereunder;
- d) not be a regular employee of the Illinois Attorney General. A Hearing Officer will be compensated as a Special Assistant Attorney General.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.407 Rules of Evidence in Hearings

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- a) Irrelevant, immaterial or unduly repetitious evidence shall be excluded. The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Objection to evidentiary offers may be made and shall be noted in the record. Subject to these requirements, when a hearing will be expedited and the interests of the parties will not be prejudiced, any part of the evidence may be received in written form.
- b) Subject to the evidentiary requirements of subsection (a) of this Section, a party may conduct cross-examinations required for a full and fair disclosure of the facts.
- c) Notice may be taken of matters of which the Circuit Courts of this State may take judicial notice. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.408 Record of Proceedings

- a) At each meeting, a licensed court reporter may be called by the Administrator, or a sound recording may be made, at its expense, shall be present at each hearing to create and shall take a permanent and complete record of the proceedings.
- b) Upon request, and at the party's his own expense, any party may have a copy of the record.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.409 Record of Hearing

The record of hearing shall include:

- a) Offers of proof, objections, and rulings thereon;
- b) All pleadings (including all pre-hearing and post-hearing notices and responses thereto, admissions, stipulations of facts, motions and rulings thereon);
- c) A statement of matters officially noted;
- d) Evidence received including testimony;
- e) All memoranda or data submitted to the Hearing Officer;
- f) Any opinion, report, or recommendation of the Hearing Officer to the Administrator or the Administrator's his representative;
- g) The findings of fact and law and final order entered by the

Administrator.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.411 Final Administrative Decision

- a) A final administrative decision shall be issued by the Administrator in writing within one (1) month of receipt of the Hearing Officer's recommendation. The Hearing Officer's recommendation, rulings and findings of fact and law are to be taken into account but are not binding on the Administrator. However the final administrative decision must be based exclusively on evidence in the record. The Administrator may refuse to accept the factual recommendations of the Hearing Officer only when all the evidence, viewed most favorably to the party for whom the Hearing Officer held, so overwhelmingly favors the other party, that no contrary holding based on that evidence could withstand Administrative Review under the Administrative Review Act because the findings of fact of the Hearing Officer are against the manifest weight of the evidence. A copy of the final administrative decision shall be sent by certified or registered mail to each party or each party's his representatives.
- b) The final administrative decision shall include findings of fact and conclusions of law, separately stated. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings.
- c) The final order of the Administrator shall constitute a final administrative decision within the provisions of the Administrative Review Act (735 ILCS 5/Art. III).

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART E: DENIAL BASED ON FINANCIAL STATEMENTS,
ESCROW, GUARANTY, SURETY BOND

Section 200.500 Assurance of Financial Ability to Fulfill Obligations

An application will be denied or a registration suspended if the franchisor's financial condition affects or would affect the ability of the franchisor to fulfill its obligations as mentioned in Section 23(1)(b) of the Act unless the franchisor assures that it will be able to meet its obligations to the franchisee as described below:

- a) If, after examination of the financial statements of the franchisor and the duties and obligations of the franchisor contained in the franchise or other agreement to furnish goods and/or services to assist its franchisees in establishing and opening their business, the Administrator determines that adequate financial resources are not

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available to the franchisor for the performance of said obligations or that the franchisor will depend primarily on the initial franchise fees paid by franchisees as such financial resources (the franchisor has no other apparent source of income or assets), the Administrator will require the franchisor at the following means: an escrow of financial capability by one of the following means: an escrow of funds, guaranty of performance, the posting of a surety bond, the issuance of a Certificate of Deposit, or the deferral of the initial franchise fees until the franchisor has met its obligations to the franchise and the franchisee has commenced doing business. However, if the franchisor's most recent balance sheet disclosed negative stockholder's equity, then the Administrator will require the franchisor to either post a surety bond or to escrow funds, or to provide a guarantee of performance at his option.

b) When determining whether adequate financial resources are available, the Administrator shall give consideration to the applicant's recent financial statements. The following criteria shall be considered in making the determination: The auditor's opinion letter or review report, notes to the financial statements, the current ratio, the quick ratio, the amount of working capital, the proportion of tangible and intangible assets, the amount and maturities of debts, the debt/equity ratio, the amount of equity, the earnings history, the proportion of receivables compared to other assets, and the quality of receivables (e.g., financial statements reflect receivables that will not be collected, including bad debts, a debt discharged in bankruptcy, or the failure to allow for aged receivables).

c) Registration under the provisions of this Section shall be limited to the sale of the number of franchises authorized by the Administrator. The Administrator will make that decision based upon the franchisor's demonstrated willingness to fulfill its obligations to a specific number of franchisees.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.502 Escrow of Funds

When a franchisor chooses the escrow of franchise fees to comply with financial assurance requirements, the Administrator may impose as a condition to registration an escrow of 100% of the initial franchise fee paid by a franchisee who is a resident of Illinois to the franchisor or an affiliate of the franchisor until the initial obligations of the franchisor to the franchisee are established and open his business are fulfilled. (See Appendix E, Illustration A.) When an escrow is imposed in connection with the registration of a franchise offering, the escrow account shall comply with the following requirements:

- Checks shall be made payable to the escrowee by the franchisee;
- The account shall be established in a federally insured bank, and the

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- funds shall be kept and maintained in an account separate and apart from the franchisor's business and personal accounts;
- The escrowed funds ~~will proceed to and deposited shall remain the property of the franchisee and shall not be subject to any liens or charges by the escrowee or judgments, garnishments, or creditor's claims against the franchisor as hereinafter provided.~~ This escrow is for the benefit of each franchisee in the amount paid by each franchisee;
- At the request of the Administrator, statements indicating the status of the escrow shall be furnished by the bank or trust company to the Administrator; and
- An escrow agreement in the form set forth in Appendix C, Illustration A hereto, shall be entered into between the bank and the franchisor, which shall state that its purpose is to protect the franchisee and shall authorize the Administrator to inspect the records of the bank as escrowee relating thereto, and shall state that, upon order of the Administrator or a court of competent jurisdiction, the escrowee shall release and pay over the funds, or a portion thereof, to the franchisor or franchisee and ~~the escrow shall remain in effect as to the respective franchisee/franchisor relationships until the initial obligations of the franchisor to assist the franchisee to establish and open the franchisee's business are fulfilled.~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.503 Release of Escrowed Funds

- A franchisor shall petition for release of escrowed funds by use of the form attached as Appendix C, Illustration B. Upon receipt of such petition, the Administrator will send notice of it to the franchisee advising the franchisee him that any objection that the franchisee may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the escrowee to release to the franchisor the escrowed funds applicable to a specified franchisee upon a showing that the franchisor has fulfilled its initial obligations under the franchise or other agreements to establish such franchise and that the franchisee has commenced doing business pursuant to the franchise agreement. The "no exception notice" shall state that the Administrator has no objection to the release of the funds to the franchisor.

- A franchisee shall petition for release by use of the form attached as Appendix C, Illustration C. Upon receipt of such petition, the Administrator will send notice of it to the franchisor advising it that any objection it may have to the petition must be filed in writing and received by the Administrator within 30 days of the date the notice is sent. The Administrator shall issue a "no exception

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notice" authorizing the escrowee to release to the franchisee the escrowed funds applicable to each his franchisee upon a showing that the franchisor has failed to fulfill its initial obligations under the franchise or other agreement to the franchisee and that the franchisee has not commenced doing business. The "no exception notice" shall state that the Administrator has no objection to the release of funds to the franchisee.

c) An order of the Administrator releasing funds held in escrow to the franchisor or franchisee shall not be considered a finding of any fact and shall not constitute evidence of any such finding of fact in any judicial or arbitration proceeding.

d) If the Administrator receives a timely objection to the release of the escrowed funds, the Administrator shall not order the funds released from escrow until such time as the objection is resolved by either settlement, court order, or decision of arbitrator.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200-507 Release of Certificate of Deposit

a) A franchisor petition for release of the Certificate of Deposit by use of the form attached as Appendix F, Illustration A. Upon receipt of such petition, the Administrator will send notice of it to the franchisee advising the franchisee him that any objection that the franchisee he may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the bank to release to the franchisor the Certificate of Deposit applicable to a specified franchisee upon a showing that the franchisor has fulfilled its initial obligations under the franchise or other agreements to establish such franchisee and that the franchisee has commenced doing business pursuant to the franchise agreement. The "no exception notice" shall state that the Administrator has no objection to the release of the Certificate of Deposit to the franchisor.

b) A franchisee shall petition for release of the Certificate of Deposit by use of the form attached as Appendix F, Illustration B. Upon receipt of such petition, the Administrator will send notice of it to the franchisor advising it that any objection it may have to the petition must be filed in writing and received by the Administrator within 30 days after of the date the notice is sent. The Administrator shall issue a "no exception notice" authorizing the bank to release to the franchisee the Certificate of Deposit applicable to the his franchisee agreement upon a showing that the franchisor has failed to fulfill its initial obligations under the franchise or other agreements to the franchisee and the franchisee has not commenced doing business. The "no exception notice" shall state that the

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Administrator has no objection to the release of the Certificate of Deposit to the franchisee.

c) An order of the Administrator releasing the Certificate of Deposit to the franchisor or franchisee shall not be considered a finding of fact and shall not constitute evidence of any such finding of fact in any judicial or arbitration proceeding.

d) If the Administrator receives a timely objection to the release of the Certificate of Deposit, the Administrator shall not order the Certificate of Deposit released until such time as the objection is resolved by either settlement, court order, or decision of arbitrator.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART F: REGISTRATION REQUIREMENTS

Section 200-600 Original Registration

a) Documents to File
The following materials must be submitted to the Administrator to obtain registration:

- 1) Uniform Franchise Registration Application Page, Appendix A, Illustration A;
- 2) Supplemental Information Page, Appendix A, Illustration B;
- 3) Sales Agent Salesperson Disclosure Form for each sales agent salesperson employed by or affiliated with the applicant, Appendix A, Illustration C;
- 4) Uniform Consent to Service of Process naming the Illinois Attorney General as Agent to receive service, with corporate, individual or partnership acknowledgment, Appendix A, Illustration D, E, F, G and H;
- 5) Certification Page, Appendix A, Illustration G;
- 6) Auditor's consent letter granting consent to use each audited report in the registration. Appendix A, Illustration H;
- 7) Advertising or promotional materials;
- 7a) Uniform Franchise Offering Circular

7b) Duplicate current within 120 days and in compliance with UFOC Guidelines. Updated information pertaining to Items 20 or 21 may be submitted as an exhibit without changing the information already in these items (see Section 200-103); and

8) A \$500-00 nonrefundable fee payable to the State of Illinois.
b) Signing of Notification Application: The Notification application shall be signed by an authorized officer of the applicant; however, it may be signed by another person holding a power of attorney for such purposes from the applicant. If signed on behalf of the applicant pursuant to such power of attorney, the application shall include as an additional exhibit a copy of the power of attorney or a copy of the corporate resolution authorizing the attorney to act.

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- c) Phase In of Audit Requirement: Franchisors who have never had audited financial statements and are filing their first application with the Administrator may request a phase in of the audit requirement. All unaudited statements must be prepared by an independent CPA in accordance with GAAP. Initial registration will be granted using the unaudited statements which cover the time periods set forth in UFOC Item 21. The franchisor must notify its CPA to count the opening inventory at the beginning of the franchisor's fiscal year which commences after the registration has been filed. At the end of that fiscal year, the balance sheet must be audited. The remainder of the financial statements for that fiscal year may be unaudited but must independently be prepared in accordance with GAAP. Financial statements for the following fiscal year must be fully audited.
- d) The franchisor submitting original registration documents shall be provided either a courtesy notice that registration has been completed or an order of denial indicating the deficiencies that must be cured.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.602 Notification of Registration [Repealed]

~~The applicant of an original, renewal or amended registration will be notified by letter of registration after the examination process has been completed.~~

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

Section 200.603 Annual Report

- a) To maintain the effectiveness of registration, a franchisor must file the Annual Report required by Section 10 of the Act no later than one business day 30 days prior to the anniversary date of the registration date. The filing of the Annual Report shall include:

1) A non-refundable filing fee of \$100.00;

2) Copies of franchisee signed acknowledgments of receipt of the Disclosure Statement listing exhibits that are required by the UFOG--North American Securities Administrators Association September--27--1975--as amended and effective April--25--1993 without further additions or amendments for all franchisees subject to Section 10 of the Act sold since the most recent Annual Report was filed or date of registration and copies of corresponding signed and dated contract pages from all such sales;

2a) Two (2) complete unbound copies of the franchisor's Uniform Franchise Offering Circular disclosure statement updated as of 120 days after of the franchisor's anniversary date. The phase in of the Audit Requirement continues. If the required audited

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financial documents are not current within 120 days after of the anniversary date, interim financials in a format consistent with GAAP including prepared in accordance with GAAP consisting of a balance sheet and corresponding income statement for the period between the close of the franchisor's most recent fiscal year and the date of the balance sheet must be submitted. All material changes in the disclosure statement must be clearly marked underlined in red on one (1) copy of the UFOC disclosure statement. The updated UFOC disclosure statement shall replace the UFOC disclosure statement previously submitted to the Administrator;

- 34) Salesperson Disclosure Form for each salesperson employed by the applicant, Appendix A, Illustration G;
- 45) Certification Page, Appendix A, Illustration G;
- 56) Auditor's consent letter granting consent to use each audited report in the registration, Appendix A, Illustration H;
- 7) A cover letter from the correspondent listing all documents changes in the Annual Report and summarizing the material changes in the disclosure statement;

- b) If the franchise is registered pursuant to conditions required under Section 15 of the Act or Section 200.500 and the franchisor has sold that number of franchises previously authorized by the Administrator, additional sales must be authorized by the Administrator in accordance with the terms of Section 15 of the Act or Section 200.500;

- c) All other documents listed in Section 200.600 need not be submitted with the Annual Report if the information contained in them is current. If the information contained in those documents is no longer current, updated documents must be filed with the Annual Report; and

- d) If the franchisor fails to timely submit an Annual Report, the Administrator shall enter an order pursuant to Section 22 of the Act declaring that the franchisor's registration is terminated effective as of the anniversary date of its registration date. Annual Reports received after the Annual Report filing date are invalid. A franchisor whose registration is terminated due to its failure to file an Annual Report must file as an original registrant and comply with Section 200.603(a)(2) and (3) if it desires to offer or sell franchises in this State;--A terminated franchisor may complete the sale of a franchise up to the effective termination/anniversary date without re-registering.

- e) The Administrator may consider a franchisor's incomplete filing of its Annual Report as partial compliance with Section 200.603(a) and provide the franchisor up to 14 additional days to complete its Annual Report if:

- 1) The franchisor has filed the required fee and an Annual Report that is in substantial compliance with Section 200.603 no later than no business day prior to the anniversary date of its registration;

- 2) A letter of explanation is provided as to why material portions

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of the Annual Report have not been provided and verifying that the missing information will be provided within a maximum period of 14 days after the Annual Report due date; and

- 3) The franchisor agrees not to make offers or conclude the sale of franchises during the period when the Annual Report is incomplete; and

- f) The franchisor shall be provided a courtesy notice that its Annual Report has been received.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.604 Amendment Application

- a) Within 90 days after the occurrence of any material change to the UFOC the the following materials must be submitted to the Administrator administrator to amend the its disclosure statement:

- 1) Two complete copies of the UFOC pages Disclosure--Statement containing the changes. One copy of the changed pages must is-to have all changes clearly marked underlined-in-red;

- 2) An Application page, Appendix A, Illustration A;

- 3) A Certification page, Appendix A, Illustration G;

- 4) A nonrefundable filing fee:

- A) \$25.00 for an immaterial amendment;

- B) \$100.00 for a material amendment; and

- 5) A cover letter detailing the amendment;

- b) A UFOC disclosure document may cannot be amended by addendum.

- c) The franchisor shall be provided a courtesy notice that its amendment(s) has been received.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.605 Final Circular Submission

A registrant may be required to submit one extra, complete unbound copy of the Disclosure Statement, including all revisions and exhibits, within one month of the date of registration. This requirement applies to original registrations and amendments.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 200.610 Denial of Initial Registration

- a) A franchisor, whose initial registration has been denied without a full review of the UFOC by the Administrator because incomplete financial statements not in compliance with UFOC Guidelines were

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submitted, shall have 90 days to correct such deficiencies. The Administrator shall have 21 days to review the corrected financial data submitted and the previously submitted circular.

- b) If the Administrator finds material deficiencies upon a complete review of the initial registration materials, or a review subsequent to the franchisor's submission of the required financial data, pursuant to subsection (a), the franchisor shall be notified that the franchisor has 90 days within which to correct such deficiencies. The Administrator shall have 21 days to review the curative information. If the franchisor cures the deficiencies noticed by the Administrator within the times specified in this part, the Administrator shall rescind the order of denial and register the franchise. A franchisor that fails to comply with statutory requirements and UFOC Guidelines during the above described 90 day periods must reapply by submitting a new registration fee and documents pursuant to the Act and Section 200.600.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART H: FAILURE TO DILIGENTLY PROSECUTE APPLICATION

Section 200.800 Failure to Diligently Prosecute Application (Repealed)

When an application for registration of a franchise or franchise-broker has been on file with the Administrator for a period of at least six months and has not become effective or registered, the Administrator shall proceed in the following manner to determine whether the application has been abandoned by the applicant:

- a) A notice will be sent to the applicant and the correspondent by registered or certified mail; return receipt requested, addressed to the most recent addresses for the applicant and the correspondent as contained in the application. The notice will inform the applicant and correspondent that the application is out of date and must either be updated and revised to comply with the Administrator's deficiency letter previously sent under Section 19 of the Act or withdrawn within 30 days after the date of the notice.

- b) If the applicant or correspondent fails to respond to such notice by filing a revision or withdrawing the application or does not furnish a satisfactory explanation as to why it has not done so within 30 days, the Administrator will enter an order declaring the application abandoned and will deny such application.

- c) The application form will be plainly marked in the following manner: "Decided--abandoned--and--denied--by--order--dated-----"

- d) The filing fee is not refundable.

(Source: Repealed at 23 Ill. Reg. _____, effective _____)

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SUBPART I: REGISTRATION OF FRANCHISE BROKERS

Section 200-900 Documents to File

Each franchise broker shall file with the Administrator the documents listed below in duplicate and pay an annual \$100-00 registration fee.

- a) Franchise Broker application page, Appendix B, Illustration A;
- b) Certification page, Appendix A, Illustration G;
- c) Salesperson Disclosure Form for each person who will be offering or selling franchises, Appendix A, Illustration C;
- d) Corporate, Partnership or Individual Acknowledgment, Appendix A, Illustrations E and F;
- e) Uniform Consent to Process naming the Illinois Attorney General as agent to receive service, Appendix A, Illustration D;
- f) Broker Authorization Form, Appendix B, Illustration B. This form must be filed with the Administrator for each franchisor the broker purports to represent before making such representations to any prospective franchisee. The franchisor must amend its UFOC to disclose each broker relationship before the respective broker(s) represents the franchisor, except under the "isolated transaction" exemption;
- g) A broker who is authorized to accept cash, checks or other payments from prospective franchisees on behalf of a franchisor shall comply with the provisions of this subsection (g) requiring an Am unaudited audited balance sheet and income statement externally prepared by an independent CPA in accordance with GAAP current within 120 days certifying the net worth of the franchise broker to be not less than \$50,000.
 - 1) the net worth of the franchise broker who will accept cash or checks payable to such broker from a prospective franchisee must not be less than \$50,000-00;
 - 2) the net worth of a franchise broker who will not accept cash or checks payable to such broker from a prospective franchisee must not be less than \$5,000-00;
 - 3) In lieu of an unaudited audited balance sheet, the broker may post a surety bond in the amount of \$5,000-00 or \$50,000-00 depending on the fees indicated in (g)(1) and (g)(2) above (Appendix B, Illustration C); or
 - 24) In lieu of the franchise broker's unaudited audited balance sheet the franchise broker may submit an audited balance sheet and income statement of a person, corporation or partnership having a net worth of \$5,000 or \$50,000 depending on the facts indicated in (g)(1) and (g)(2) above, a Guaranty of Performance from such other entity (Appendix B B, Illustration D A), a Corporate Resolution (Appendix D, Illustration B), a Secretary's Certificate (Appendix D, Illustration C), a Consent to Service of

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Process from the guarantor (Appendix A, Illustration D), and an Acknowledgment from the guarantor (Appendix A, Illustration Illustrations E or F);

- h) \$100-00 registration fee.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX A Franchise Registration Forms

Section 200. ILLUSTRATION A Uniform Franchise Registration Notification Application Page

File No. _____

(Insert prior file number of
previous filings of Applicant, if
any)

FEE: _____

(Enclosed ~~is~~ to be enclosed by
Applicant at time of initial filing
application is initially filed)

Date of
Filing Application: _____

Notification of Filing Application For (Check only one category):

____ Registration of an offer or sale of franchises
____ Annual Report
____ Amendment

1. Name of Franchisor

Name under which the Franchisor is doing or intends to do business.

2. Franchisor's principal business address.

Name and address of Franchisor's agent in the State of Illinois
authorized to receive process.Illinois Attorney General, 500 South Second Street, Springfield,
Illinois 627063. Name, address and telephone number of subfranchisors, if any, for this
State.4. Name, address and telephone number of person to whom communications
regarding this application should be directed.

(Source: Amended at 23 Ill. Reg. _____, effective

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Section 200. ILLUSTRATION C Sales Agent Salesperson Disclosure Form

1. List the persons who will offer or sell franchises in this State. For each person state:

- A. Name;
B. Business address and telephone number;
C. Home address and telephone number;
D. Present employer;
E. Present title;
F. Social security number;
G. Birthdate; and
H. Employment during the past 5 years. For each such employment state the name of the employer, position held and beginning and ending dates.

2. State whether any person identified in 1. above:

- A. Has any administrative, civil or criminal action pending alleging a violation of franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or any comparable allegations?

YES _____ NO _____

- B. Has during the 10 year period immediately before the Offering Circular date:

- (1) been convicted of a felony or pleaded nolo contendere to a felony charge or been held liable in a civil action by final judgment if the felony or civil action involved a violation of franchise or securities law, fraud, embezzlement, fraudulent conversion, restraint of trade, unfair or deceptive practices, misappropriation of property or comparable violation of law?

YES _____ NO _____

- (2) entered into or been named in any consent judgment, decree, order or assurance under federal or state franchise,

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- securities antitrust, monopoly, trade practice, or trade regulation law?

YES _____ NO _____

- (3) been subject to any order of any national securities association or national securities exchange (as defined in the Securities and Exchange Act of 1934, 15 USC 78a-78d) suspending or expelling the person from membership in the association or exchange.

YES _____ NO _____

- C. With respect to each question above answered "YES" state:

- (1) the name of each person or entity involved;
(2) the court, agency, association or exchange involved;
(3) a summary of the allegations;
(4) if applicable, the date of the conviction, judgment, decree, order or assurance; and
(5) the penalty imposed, damages assessed and nature thereof, terms and conditions of the judgment, decree, order or assurance.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION E Corporate Acknowledgment

STATE OF _____)
COUNTY OF _____) SS

On this _____ day of _____, 19____, before me
_____ the undersigned officer, personally appeared to
me to be the _____ President and _____ Secretary, respectively, of
the above named corporation, and that they, as such officers, being authorized,
so to do, executed the foregoing instrument for the purpose therein contained,
by signing the name of the corporation by themselves as such officer.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public

My commission expires: _____

(Source: Amended at 23 Ill. Reg. _____, effective
_____)

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Section 200. ILLUSTRATION D Uniform Consent to Service of Process

_____ (a corporation organized under the laws of the State of
January 1, 1996) (a partnership) (an individual) _____ and the successors
irrevocably appoints the _____ (regulatory authority) _____, _____
in office, its attorney in the State of _____ for service of notice,
process or pleading in any action or proceeding against it arising out of or in
connection with the sale of franchises, or a violation of the franchise laws of
_____ (state) _____; and consents that an action or proceeding against it may
be commenced in a court of competent jurisdiction and proper venue within
_____ (state) _____ by service of process upon this officer with the same
effect as if the undersigned was organized or created under the laws of
_____ (state) _____ and had lawfully been served with process in
_____ (state) _____.

A copy of any notice, process or pleading served pursuant to this consent
shall be mailed to:

_____ (name and address)

Dated: January 1, 19____

By: _____

Title _____

(SEAL)

By: _____

Title _____

Notary Public

(Notarial Seal)

My Commission Expires: _____

(Source: Amended at 23 Ill. Reg. _____, effective
_____)

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Section 200. ILLUSTRATION F Individual or Partnership Acknowledgment

STATE OF _____)
COUNTY OF _____) SS

On this _____ day of _____, 19____, before me the undersigned officer, personally appeared _____ to me personally known and known to be the same person(s) whose name(s) is (are) signed to the foregoing instrument, and acknowledged the execution thereof for the uses and purposes therein set forth.

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

(Notarial Seal)

Notary Public

My commission expires: _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION G Certification Page

I certify under penalty of law that I have read this notification application and the exhibits attached hereto and incorporated herein by reference, and know the contents thereof and that the statements therein are true and correct.

Executed at _____, _____, 19____.

(Signature(s) of Franchisor, Subfranchisor or

(SEAL)

By _____

Title _____

STATE OF _____)
COUNTY OF _____) SS

Personally appeared before me this _____ day of 1990, 19____ the above-named January 1, 1996 (and) January 1, 1996 to me known to be the person(s) who executed the foregoing notification application (as January 1, 1996 and _____ respectively, of the above-named applicant) and (each) being first duly sworn, stated upon oath that said notification application, and all exhibits submitted herewith, are true and correct.

(Notarial Seal)

Notary

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION L Requirements for Preparation of a Uniform Franchise Offering Circular

THE UNIFORM FRANCHISE OFFERING CIRCULARGUIDELINESGENERAL INSTRUCTIONS

90. Introduction: The Uniform Franchise Offering Circular (UFOC) Guidelines consist of the Requirements, Instructions and Sample Answers (see Appendix A, Illustration B). The UFOC Guidelines were prepared and adopted by the North American Securities Administrators Association ("NASAA") and its predecessor, the Midwest Securities Commission Association June 10, 1993. The members of NASAA cannot create statutes since that is the constitutional province of state legislators, but NASAA intends for the UFOC Guidelines to facilitate compliance with disclosure requirements under state franchise investment laws. Where possible, NASAA has developed uniform disclosure requirements, but differences in state laws bearing on the franchise relationship may necessitate changes. In addition, state administrators will continue to review the application for deficient disclosure and additional disclosure necessitated by special problems or risks in the proposed offering.

100. Follow these General Instructions and the Requirement and Instruction for each item in franchise registration applications and disclosure in the Uniform Franchise Offering Circular.

110. Original Registration Application - Documents to File:

- (a) Uniform Franchise Registration Application Page (also known as "Facing Page") (see Appendix A, Illustration A);
- (b) Supplemental Information Page(s) (see Appendix A, Illustration B);
- (c) Certification Page (see Appendix A, Illustration G);
- (d) Uniform Consent to Service of Process (see Appendix A, Illustration C);
- (e) Sales Agent Disclosure Form (see Appendix A, Illustration C);
- (f) If the applicant is a corporation or partnership, an authorizing resolution if the application is verified by a person other than applicant's officer or general partner (see Appendix A, Illustrations E, F, M and N);
- (g) Uniform Franchise Offering Circular (this Appendix A, Illustration L);
- (h) Application Fee (see Section 40 of the Act);
- (i) Auditor's consent (or a photocopy of the consent) to the use of the latest audited financial statements in the offering circular (see Appendix A, Illustration H).

120. Renewal Application: When state law requires renewal, mark "renewal" on the application page. Submit all documents required for an initial application with additions to the previously filed documents underlined. Changes must be clearly marked so that the change is noticed easily. File a renewal

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application before the prior registration has expired (see Section 10 of Act). If the prior registration has expired, mark "Registration on an Offer or Sale of Franchises" on the facing page and pay the fee charged for initial registrations. Redlining and bracketing changes from the last filing will speed a re-registration. Do not mark the amendment boxes on the application page on the first renewal filing even if documents are revised. In Illinois you can make as many changes in a renewal filing as are necessary without paying an amendment fee.

150. "Disclose" means to state all material facts in an accurate and unambiguous manner. Disclose clearly, concisely and in a narrative form that is understandable by a person unfamiliar with the franchise business. For clear and concise disclosure avoid legal antiques[] and repetitive phrases[2]. When possible, use active, not passive voice[3]. Limit the length and complexity of disclosure through careful organization of information in the disclosure. Avoid technical language and unnecessary detail. Make the format and chronological order consistent within each item.

NOTES:

- 1 Avoid these legal antiques. Preferred substitutes are in parentheses: aforesaid: arising from (from); as between: as an inducement for; as part of the consideration; as set forth in (in); as the case may be, at a later point in time; binding upon and inure, commence (begin); condition precedent (before); condition subsequent (after); consist of (are); engaged in the business of offering (offers); for and in consideration of the grant of the franchise; for a period of (for); foregoing; forthwith; from time to time; hereby; herein; hereinafter; hereto; heretofore; if necessary; in the event (if); including but not limited to (including); in any manner whatsoever; including without limitation (including); in conjunction with; connection with; in no event of (if); in whole or in part; it will be specifically understood that; manner in which; not later than (within, by); not less than (at least); notwithstanding offers to an individual, corporation or partnership (offer); on behalf of (for); precedent (before); prescribed (required); prior to (before); provided however (but, unless); provided that (if, unless); purporting to; relating to (under); subsequent (after); such (this); so as to (to); so long as (while); thereafter, therefrom; thereof; thereunder; without limiting the foregoing, whatsoever; with respect to.

- 2 Avoid repetitive phrases. Preferred substitutes are in parentheses: agrees, acknowledges and recognizes; any and all; are and remain; based upon, related to, or growing out of (because); certified as true and correct (certified);

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consultation, assistance and guidance (guidance); each and every; equipment, furniture, supplies and inventory set forth on the equipment list attached as Exhibit (items on Exhibit necessary and appropriate; sample, test and review (test)); twenty three (23).

3 The preferred phrase in the parentheses: as the franchisor prescribes (you must); being offered (offer); consists of (is); engaged in the business of offering (offer); giving rise to; if it becomes necessary for (if); inure to the benefit of (benefits); if granted the right to (can); is given an opportunity to (can); is required to (must); shall be no less than (a minimum of); shall continue in effect (continues); with the exception of (except).

160. Since prospective franchisees must have sufficient disclosure to understand economic commitments and to develop a business plan, Items 5, 6, 7 and 8 must disclose the minimum and maximum franchisee cost. The franchisor should provide reasonably available information to allow franchisees to forecast future charges listed in these Items and to be paid to person who are independent of the franchisor. Future payments to the franchisor should be specific as is required by individual Items.

170. The disclosure for each UFOC Item should be separately titled and in the required order. Do not repeat the UFOC question in the offering circular. Respond to each question fully. If the disclosure is not applicable, respond in the negative but if an answer is required "if applicable," respond only if the requested information applies. Do not qualify a response with a reference to another document unless permitted by the instructions to that Item.

180. For each Item in the UFOC, type the Requirement's Item title and number. Sub-items may be designated by descriptive headings, but do not use sub-item letters and numbers.

190. Separate documents (for example, a confidential operations manual) must not make representations or impose terms that contradict or are materially different from the disclosure in the offering circular.

200. Use 8-1/2 by 11 inch paper for the entire application.

210. When the applicant is a master franchisor seeking to sell franchisees, references in these requirements and instructions to "franchisee" include the franchisor unless the language context requires a different meaning.

220. The offer of subfranchises is an offer separate from the offer of franchisees and usually requires a separate registration or exemption. A single application may register the sale of single unit and multi-unit franchisees if the offering circular is not confusing.

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230. When the applicant is a subfranchisor, disclose the same information concerning the subfranchisor that is required about the franchisor, to the extent applicable.

240. In offerings by a subfranchisor, "franchisor" means both the franchisor and subfranchisor.

250. When state requirements conflict with these Guidelines, the state requirements control. The State Administrator may modify or waive these Guidelines or may require additional documentation or information.

260. Grossly deficient applications may be rejected summarily by the Administrator as incomplete for filing. It is not the function of an Administrator to prepare, in effect, an applicant's application. The additional examiner time reviewing the grossly deficient product delays the processing of diligently prepared and pursued applications.

270. The Guidelines that continue after these Instructions use the following format:

(a) The title of the Item follows the Item number. It is capitalized and centered on the page.

(b) The "Item" is a restatement of the Uniform Franchise Offering Circular (UFOC) Item Requirement. It is capitalized and follows the title of the Item.

(c) The "Instruction" appears beneath the Item. It explains portions of the Item requirements.

(d) The "Sample Answer" at the end of each Item provides sample disclosures. Double horizontal lines divide the Sample Answer from the instructions.

COVER PAGE: The State cover page of the offering circular must state:

1. The title in boldface type: **FRANCHISE OFFERING CIRCULAR**

2. The franchisor's name, type of business organization, principal business address and telephone number.

3. A sample of the primary business trademark, logotype, trade name, or commercial label or symbol under which the franchisee will conduct its business. (Place in upper left-hand corner of the cover page.)

4. A brief description of the franchised business.

5. The total amounts in Items 5 and 7 of the offering circular: Franchisee's initial franchise fee or other payment and Franchisee's initial investment.

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6. The following statements:

Information comparing franchisors is available. Call the State administrators listed in Exhibit _____ or your public library for sources of information.

Registration of this franchise by a state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in the offering is untrue, contact the Federal Trade Commission and (State or Provincial authority).

7. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.)

Cover Page Instructions:

i. Present information in the required order. Except for risk factors or when instructed by the examiner, do not capitalize or underline.

ii. The estimated cash investment should agree with the Item 7 total. This total should represent the franchisee's entire initial investment minus only exclusions allowed by Item 7. Do not state what the total includes.

iii. Limit the cover page disclosure to one page unless risk factors require additional space. Disclosure on the cover page should be brief. Limit the description of the business to the product or service offered by the franchisor. Unless required by a State regulator, do not disclose financing arrangements or the franchisee's right to use the trademark. Exclude non-required information unless necessary as a risk factor or required by a State regulator.

iv. If applicable, disclose the following risk factors using the following language on the cover:

- a. THE FRANCHISE AGREEMENT PERMITS THE FRANCHISEE (TO SUE) (TO ARBITRATE WITH) _____ (franchisor) _____ ONLY IN _____ (state) _____ OUT OF STATE (ARBITRATION) (LITIGATION) MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST MORE (TO SUE) (TO ARBITRATE WITH) _____ (franchisor) _____ IN _____ (state) _____ THAN IN YOUR HOME STATE.
- b. THE FRANCHISE AGREEMENT STATES THAT _____ (state) _____ LAW GOVERNS THE AGREEMENT, AND THIS LAW MAY NOT PROVIDE THE SAME PROTECTIONS AND BENEFITS AS LOCAL LAW. YOU MAY WANT TO COMPARE THESE LAWS.
- c. THERE MAY BE OTHER RISKS CONCERNING THIS FRANCHISE.

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v. In addition to the above language, disclose other risk factors required by a State regulator.

vi. Use capital letters for risk factor disclosure.

vii. In multistate offerings in which the franchisor uses a single offering circular, refer to an exhibit to the offering circular for a list of State or Provincial authority.

Sample Cover Page(Logo) Franchise Offering Circular

Belmont Mufflers, Inc.
A Minnesota Corporation
First Street
Jackson, Minnesota 55000
(612) 266-3430

The franchisee will repair and install motor vehicle exhaust systems.

The initial franchise fee is \$10,000. The estimated initial investment required ranges from \$132,700 to \$160,200. This sum does not include rent for the business location.

Risk Factors:

THE FRANCHISE AGREEMENT REQUIRES THAT ALL DISAGREEMENTS BE SETTLED BY ARBITRATION IN MINNESOTA. OUT OF STATE ARBITRATION MAY FORCE YOU TO ACCEPT A LESS FAVORABLE SETTLEMENT FOR DISPUTES. IT MAY ALSO COST YOU MORE TO ARBITRATE WITH US IN MINNESOTA THAN IN YOUR HOME STATE.

Information about comparisons of franchisors is available. Call the state administrators listed in Exhibit _____ or your public library for sources of information.

Registration of this franchise with the state does not mean that the state recommends it or has verified the information in this offering circular. If you learn that anything in this offering circular is untrue, contact the Federal Trade Commission and (State or Provincial authority).

Effective date: _____

TABLE OF CONTENTS: INCLUDE A TABLE OF CONTENTS BASED ON THE REQUIREMENTS OF

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THIS OFFERING CIRCULAR.

Table of Contents Instructions:
Refer to UFOC Items and state the page where each UFOC Item disclosure begins.
List exhibits by letter. Use the following format:

SAMPLE TABLE OF CONTENTS:

	PAGE
TABLE OF CONTENTS	
ITEM 1 The Franchisor, its Predecessors and Affiliates	
2 Business Experience	
3 Litigation	
4 Bankruptcy	
5 Initial Franchise Fee	
6 Other Fees	
7 Initial Investment	
8 Restrictions on Sources of Products and Services	
9 Franchisee's Obligations	
10 Financing	
11 Franchisor's Obligations	
12 Territory	
13 Trademarks	
14 Patents, Copyrights and Proprietary Information to Participate in the Actual Operation of the Franchise Business	
15	
16 Restrictions on What the Franchisee May Sell	
17 Renewal, Termination, Transfer and Dispute Resolution	
18 Public Figures	
19 Earnings Claims	
20 List of Outlets	
21 Financial Statements	
22 Contracts	
23 Receipt	

Exhibits

A. Franchise Agreement	
B. Equipment Lease	
C. Lease for Premises	
D. Loan Agreement	

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Item 1
THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES

Item 1 Instructions:

- i. Use the word "we," initials or one or two words to refer to the franchisor. Use different initials or a different one or two words to refer to other persons contracting with the franchisee under the franchise agreement. Except in the 23 Item titles, use these initials or the word(s) to describe these persons or entities throughout the offering circular.
- ii. Define the franchisee as "you" and use this description throughout the offering circular. If the franchisee could be a corporation, partnership or other entity, disclose whether "you" includes the franchisee's owners.
- iii. "Predecessor" in Item 1 means a person from whom the franchisor acquired directly or indirectly the major portion of the franchisor's assets.
- iv. The disclosure regarding predecessors need only cover the 10 year period immediately before the close of the franchisor's most recent fiscal year.
- v. Affiliate in Item 1 means a person (other than a natural person) controlled by, controlling or under common control with the franchisor, which is offering franchises in any line of business or is providing products or services to the franchisees of the franchisor.

DISCLOSE IN SUMMARY FORM:

- A. THE NAME OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES.
- B. THE NAME UNDER WHICH THE FRANCHISOR DOES OR INTENDS TO DO BUSINESS.

Item 1B Instruction:

If the franchisor does business under a name different from the name disclosed in Item 1A, state that other name. If not, state that the franchisor does not do business under another name.

C. THE PRINCIPAL BUSINESS ADDRESS OF THE FRANCHISOR, ITS PREDECESSORS AND AFFILIATES, AND THE FRANCHISOR'S AGENT FOR SERVICE OF PROCESS.

Item 1C Instructions:

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i. Principal business address means "home office" in the United States, not in the state for which the offering circular was prepared. If appropriate, also disclose the location of an international "home office." The business address cannot be a post office box.

ii. In a multi-state offering in which the agent for service of process is required, the franchisor may use an exhibit or the acknowledgement of receipt to disclose this agent.

D. THE BUSINESS FORM OF THE FRANCHISOR

Item 1D Instruction:

Disclose the state of incorporation or business organization and the type of business organization.

E. THE FRANCHISOR'S BUSINESS AND THE FRANCHISES TO BE OFFERED IN THIS STATE.

Item 1E Instructions:

Disclose the following:

- i. That the franchisor sells or grants franchises;
- ii. Whether the franchisor operates businesses of the type being franchised;
- iii. The franchisor's other business activities;
- iv. The business to be conducted by the franchisees;
- v. The general market for the product or service to be offered by the franchisees. (For example, is the market developed or developing? Will the goods be sold primarily to a certain group? Are sales seasonal?);
- vi. In general terms any regulations specific to the industry in which the franchise business operates. It is not necessary to include laws or regulations that apply to businesses generally;
- vii. A general description of the competition.

F. THE PRIOR BUSINESS EXPERIENCE OF THE FRANCHISOR. ITS PREDECESSORS AND AFFILIATES INCLUDE:

- (1) THE LENGTH OF TIME THE FRANCHISOR HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

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(2) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE HAS CONDUCTED A BUSINESS OF THE TYPE TO BE OPERATED BY THE FRANCHISEE.

(3) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(4) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES FOR THE SAME TYPE OF BUSINESS AS THAT TO BE OPERATED BY THE FRANCHISEE.

(5) WHETHER THE FRANCHISOR HAS OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

(A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;

(B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND

(C) THE LENGTH OF TIME THE FRANCHISOR HAS OFFERED EACH OTHER FRANCHISE.

(6) WHETHER EACH PREDECESSOR AND AFFILIATE OFFERED FRANCHISES IN OTHER LINES OF BUSINESS, INCLUDING:

(A) A DESCRIPTION OF EACH OTHER LINE OF BUSINESS;

(B) THE NUMBER OF FRANCHISES SOLD IN EACH OTHER LINE OF BUSINESS; AND

(C) THE LENGTH OF TIME EACH PREDECESSOR AND AFFILIATE OFFERED EACH OTHER FRANCHISE.

Item 1F Instruction:

Limit disclosure about predecessors to the time before the franchisor acquired the predecessor's assets. Thus, under the 10 year limitation, if a franchisor acquired the assets of a predecessor 8 years ago, the disclosure about the predecessor should cover only the 2 year period before the acquisition.

Sample Answer 1

To simplify the language in this offering circular "Belmont" means Belmont Mufflers Inc., the franchisor. "you" means the person who buys the franchise. Belmont is a Minnesota corporation that was incorporated on September 3, 1963. Belmont does business as Belmont Muffler Shops. Our principal business address is 111 First Street, Jackson, Minnesota 55555.

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Belmont's agent for service of process is disclosed in Exhibit _____.

Belmont currently operates 12 Belmont Muffler Shops and sells pipe bending machines and mufflers to various muffler shops.

Belmont franchises the right to sell and install mufflers for the public. You must honor our guarantee to replace mufflers or exhaust pipes that wear out if the vehicle ownership has not changed. Belmont's franchisees often operate their muffler shop franchise with their service stations or tire center. Your competitors include department store service departments, service stations and other national chains of muffler shops. Exhibit _____ is attached to this offering circular and contains a summary of the special regulations for muffler installation in your state.

During the past 5 years Belmont has operated 7 muffler shops that are similar to the franchised shops being offered. All these shops are located in urban areas, have approximately xxxxx square feet of floor space and are located on busy streets. An additional 3 muffler shops were opened in 1990. From 1968 to 1973, Belmont offered franchises for "Repair-All Transmission Shops." "Repair-All" franchises repaired and replaced motor vehicle transmissions under a marketing plan similar to the franchise in this offering circular. Belmont sold 40 of these franchises primarily in the states of Minnesota, Michigan, Wisconsin and Illinois. In 1973, Belmont sold this transmission repair company to CTF Inc.

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Item 2

BUSINESS EXPERIENCE

LIST BY NAME AND POSITION THE DIRECTORS, TRUSTEES AND/OR GENERAL PARTNERS, THE PRINCIPAL OFFICERS AND OTHER EXECUTIVES OR SUBFRANCHISORS WHO WILL HAVE MANAGEMENT RESPONSIBILITY RELATING TO THE FRANCHISES OFFERED BY THIS OFFERING CIRCULAR. LIST ALL FRANCHISE BROKERS. STATE EACH PERSON'S PRINCIPAL OCCUPATIONS AND EMPLOYERS DURING THE PAST FIVE YEARS.

Item 2 Instructions:

- i. Principal officers include the chief executive and chief operating officer, the president, financial, franchise marketing, training and franchise operations officers.
- ii. First disclose the position and the name of the person holding it. Underline this information; then skip one line.
- iii. Disclose the beginning date and departure date for each job held in the five year period whether or not this date is within the past five years. Disclose the location of the job.
- iv. Do not disclose home addresses, home telephones, social security numbers or birth dates in this item.
- v. Disclose the required information concerning the franchise broker's directors, principal officers and executives with management responsibility to market or service the franchises.
- vi. In a multi-state offering in which the franchisor uses a single offering circular and franchise brokers and executives with direct management responsibility to the franchisees differs from state to state, use an exhibit to refer to these personnel.

Sample Answer 2

President: Jane J. Doe

From June 1978, until April, 1986, Ms. Doe was Vice President of Atlas Inc., a Houston, Texas based manufacturer of automobile wheels. In April 1986, she joined Belmont as a Director and Vice President. She was promoted to President in June 1987.

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Item 3

LITIGATION

DISCLOSE WHETHER THE FRANCHISOR, ITS PREDECESSOR, A PERSON IDENTIFIED IN ITEM 2 OR AN AFFILIATE OFFERING FRANCHISES UNDER THE FRANCHISOR'S PRINCIPAL TRADEMARK:

A. HAS AN ADMINISTRATIVE, CRIMINAL OR MATERIAL CIVIL ACTION PENDING AGAINST THAT PERSON ALLEGING A VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IN ADDITION, INCLUDE ACTIONS OTHER THAN ORDINARY ROUTINE LITIGATION INCIDENTAL TO THE BUSINESS WHICH ARE SIGNIFICANT IN THE CONTEXT OF THE NUMBER OF FRANCHISEES AND THE SIZE, NATURE OR FINANCIAL CONDITION OF THE FRANCHISE SYSTEM OR ITS BUSINESS OPERATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM, NATURE, AND CURRENT STATUS OF THE PENDING ACTION. FRANCHISOR MAY INCLUDE A SUMMARY OPINION OF COUNSEL CONCERNING THE ACTION IF A CONSENT TO USE OF THE SUMMARY OPINION IS INCLUDED AS PART OF THIS OFFERING CIRCULAR.

B. HAS DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR BEEN CONVICTED OF A FELONY OR PLEADED NOLO CONTENDERE TO A FELONY CHARGE; OR BEEN HELD LIABLE IN A CIVIL ACTION BY FINAL JUDGMENT OR BEEN THE SUBJECT OF A MATERIAL ACTION INVOLVING VIOLATION OF A FRANCHISE, ANTITRUST OR SECURITIES LAW, FRAUD, UNFAIR OR DECEPTIVE PRACTICES, OR COMPARABLE ALLEGATIONS. IF SO, DISCLOSE THE NAMES OF THE PARTIES, THE FORUM AND DATE OF CONVICTION OR DATE JUDGMENT WAS ENTERED, PENALTY OR DAMAGES ASSESSED AND/OR TERMS OF SETTLEMENTS.

C. IS SUBJECT TO A CURRENTLY EFFECTIVE INJUNCTIVE OR RESTRICTIVE ORDER OR DECREE RELATING TO THE FRANCHISE OR UNDER A FEDERAL, STATE OR CANADIAN FRANCHISE, SECURITIES, ANTITRUST, TRADE REGULATION OR TRADE PRACTICE LAW RESULTING FROM A CONCLUDED OR PENDING ACTION OR PROCEEDING BROUGHT BY A PUBLIC AGENCY. IF SO, DISCLOSE THE NAME OF THE PERSON, THE PUBLIC AGENCY AND COURT, A SUMMARY OF THE ALLEGATIONS OR FACTS FOUND BY THE AGENCY OR COURT AND THE DATE, NATURE, TERMS AND CONDITIONS OF THE ORDER OR DECREE.

Item 3 Instructions:

i. Definitions:

- a. For purposes of these instructions to Item 3, "franchisor" includes the franchisor, its predecessors, persons identified in Item 2 and affiliates offering franchises under the franchisor's principal trademarks.
- b. Action: Action includes complaints, cross claims, counterclaims, and third party complaints in a judicial proceeding, and their equivalents in an administrative action or arbitration proceeding. The franchisor may disclose its counterclaims. Omit

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actions that were dismissed by final judgment without liability of or entry of an adverse order against the franchisor.

- c. Included in the definition of material is an action or an aggregate of actions if a reasonable prospective franchisee would consider it important in making a decision about the franchised business.
- d. In this Item, settlement of an action does not diminish its materiality if the franchisor agrees to pay material consideration or agrees to be bound by obligations which are materially adverse to its interests.
- e. "Ordinary routine litigation" means actions which ordinarily result from the business and which do not depart from the normal kinds of actions in the business.
- f. "Held liable" includes a finding by final judgment in a judicial, binding arbitration or administrative proceeding that the franchisor, as a result of claims or counterclaims, must pay money or other consideration, must reduce an indebtedness by the amount of an award, cannot enforce its rights, or must take action adverse to its interests.
- g. "Currently Effective": An injunctive or restrictive order or decree is "currently effective" unless it has been vacated or rescinded by a court or by the Issuing public agency. An order that has expired by its own terms is not "currently effective."

If the named party(s) have fully complied with an order (for example, through registration of its franchise offer), the order is not "currently effective." A party has not fully complied with an order to act or to refrain from an act (for example, to comply with the franchise law or to refrain from violating the franchise law) until the order expires by its own terms.

ii. Civil Litigation or Injunctive or Restrictive Order:

- a. Use Sample Answer 3-1 for a negative response to Item 3 if the franchisor has never been named in litigation or if the only litigation naming the franchisor is outside the scope of Item 3.
- b. Disclose in the same order as the instructions below appear.
- c. Title each action and state its case number or citation in parentheses. Underline the title of the action.
- d. For each action state the action's initial filing date and the opposing party's name and relationship with the franchisor. Relationships include competitor, supplier, lessor, franchisee, former franchisee, or class of franchisees.
- e. Summarize the legal and factual nature of each claim in the action.
- f. Summarize the relief sought or obtained. Summarize conclusions of law or fact.
- g. State that other than these (list number of actions) no litigation is required to be disclosed in this offering circular.

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iii. Criminal Convictions or Pleas:

- a. Disclose in the same order as the following instructions appear.
- b. Title each action and state its citation in parentheses. Underline the title of the action.
- c. Name the person convicted or who pleaded.
- d. State the crime or violation and the date of conviction.
- e. Disclose the sentence or penalty imposed.
- f. State that other than these (list the number of actions) actions, no litigation is required to be disclosed in this offering circular.

Sample Answer 3-1

No litigation is required to be disclosed in this offering circular.

Sample Answer 3-2

Doe v. Belmont Muffler Service, Inc. (cite) On March 1, 1985, our franchisee, Donald Doe, sought to enjoin us from terminating him for nonpayment of royalty fees. Doe alleged _____. On April 3, 1986, Doe withdrew the case when we repurchased his franchise for \$90,000 and agreed not to enforce non-competitive clauses against him.

Indiana v. Belmont Muffler Service, Inc. (cite) On April 1, 1985, the Attorney General of Indiana sought to enjoin us from offering unregistered franchises and from using false income representations. The Attorney General alleged that the earnings claims were false because.... The court found that we had offered franchisees, that the offers were not registered and that we had made the alleged false representations in our earnings claims. The court enjoined us from repeating those acts.

Other than these 2 actions, no litigation is required to be disclosed in this offering circular.

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Item 4

BANKRUPTCY

STATE WHETHER THE FRANCHISOR, ITS AFFILIATE, ITS PREDECESSOR, OFFICERS OR GENERAL PARTNER DURING THE 10 YEAR PERIOD IMMEDIATELY BEFORE THE DATE OF THE OFFERING CIRCULAR (A) FILED AS DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE; (B) OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE; OR (C) WAS A PRINCIPAL OFFICER OF A COMPANY OR A GENERAL PARTNER IN A PARTNERSHIP THAT EITHER FILED AS A DEBTOR (OR HAD FILED AGAINST IT) A PETITION TO START AN ACTION UNDER THE U.S. BANKRUPTCY CODE OR THAT OBTAINED A DISCHARGE OF ITS DEBTS UNDER THE BANKRUPTCY CODE DURING OR WITHIN 1 YEAR AFTER THE OFFICER OR GENERAL PARTNER OF THE FRANCHISOR HELD THIS POSITION IN THE COMPANY OR PARTNERSHIP. IF SO, DISCLOSE THE NAME OF THE PERSON OR COMPANY THAT WAS THE DEBTOR UNDER THE BANKRUPTCY CODE, THE DATE OF THE ACTION AND THE MATERIAL FACTS.

Item 4 Instructions:

- i. First, name the party that filed (or had filed against it) the petition in bankruptcy and the party's relationship to the franchisor. If the debtor in a bankruptcy proceeding was or is affiliated with the franchisor, state the relationship. If the debtor in a bankruptcy proceeding is unaffiliated with the franchisor, state the name, address and principal business of the bankrupt company.
- ii. Disclose that the entity filed bankruptcy or reorganization under the bankruptcy law and the date of the original filing.
- iii. Identify the bankruptcy court, and the case name and number. Put this information in parentheses.
- iv. State the date on which the debtor obtained a discharge in bankruptcy (including discharges under Chapter 7) and confirmation of any plans of reorganization under Chapters 11 and 13 of the U.S. Bankruptcy Code).
- v. Disclose other material facts.
- vi. Cases, actions and other proceedings under the laws of foreign nations relating to bankruptcy proceedings should be included in answers, where responses are required, as if those cases, actions and proceedings took place under the U.S. Bankruptcy Code.
- vii. If information is disclosed in this Item, at the end of the disclosure add Sample Answer 4-1 with the qualification "other than these actions."
- viii. Use Sample Answer 4-1 if no person listed in Items 1 or 2 has been

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involved as a debtor in bankruptcy proceedings or any person listed in Items 1 or 2 has been involved as debtor in bankruptcy proceedings but the bankruptcy proceedings (under the U.S. Bankruptcy Code or its predecessor, the National Bankruptcy Act of 1898) were discharged more than 10 years ago. "Person" includes natural persons and legal entities listed in Items 1 and 2. Person does not include anyone acting solely as the franchisor's agent for service of process.

Sample Answer 4-1

No person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

Sample Answer 4-2

On March 2, 1984, Belmont filed a petition to reorganize under Chapter 11 of the U.S. Bankruptcy Code. We were allowed to continue to operate under bankruptcy court supervision. On October 2, 1985, the bankruptcy court approved our plan of reorganization and discharged the proceedings. (US Bankruptcy Court for the District of Case B 84-301.)

Belmont's present president, Roger Rowe, was president of Acme Muffler Service, Inc., a Houston, Texas based manufacturer of exhaust systems, from July 1, 1978, through June 14, 1983. On June 6, 1983, an involuntary petition under the U.S. Bankruptcy Code was filed against Acme by its creditors. On July 14, 1983, the court entered an order of relief. Acme sold its assets and was dissolved.

Other than these 2 actions, no person previously identified in Items 1 or 2 of this offering circular has been involved as a debtor in proceedings under the U.S. Bankruptcy Code required to be disclosed in this Item.

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Item 5

INITIAL FRANCHISE FEE

DISCLOSE THE INITIAL FRANCHISE FEE AND STATE THE CONDITIONS WHEN THIS FEE IS REFUNDABLE.

Item 5 Instructions:

i. "Initial fee" includes all fees and payments for services or goods received from the franchisor before the franchisee's business opens. "Initial fee" includes all fees and payments whether payable in lump sum or installments.

ii. If the initial fee is not uniform, disclose the formula or the range of initial fees paid in the fiscal year before the application date and the factors that determined the amount.

iii. Disclose installment payment terms in this Item or in Item 10.

Sample Answer 5-1

All franchisees pay a \$10,000 lump sum franchise fee when they sign the franchise agreement. Belmont will refund the entire amount if we do not approve your application within 45 days. Belmont will refund \$9,000 of this fee if you do not satisfactorily complete your 2-week training. There are no refunds under other circumstances.

Sample Answer 5-2

You must pay a franchise license fee of \$_____ per thousand licensed drivers who reside within your exclusive area when the franchise agreement is signed. The number of licensed drivers is determined by the latest abstract of the state agency which issues driver's licenses. The minimum fee is \$70,000. When you send your application, you must pay a non-refundable \$500 application fee. You must pay an additional \$10,000 when you receive your equipment. The balance of your fee is payable in 12 equal monthly installments of \$_____. The first installment payment is due 1 year after your shop opens. Belmont charges 10% annual interest on the unpaid balance. Interest compounds daily and accrues from the date that you receive your equipment. All buyers pay this uniform fee and receive the same financing terms on the fee. If your application is not accepted, Belmont retains the \$500 for investigative costs, but you are not liable for the \$19,500 remainder. Belmont does not give

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refunds under other circumstances.

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Item 6

OTHER FEES

DISCLOSE OTHER RECURRING OR ISOLATED FEES OR PAYMENTS THAT THE FRANCHISEE MUST PAY TO THE FRANCHISOR OR ITS AFFILIATES OR THAT THE FRANCHISOR OR ITS AFFILIATES IMPOSE OR COLLECT IN WHOLE OR IN PART ON BEHALF OF A THIRD PARTY. INCLUDE THE FORMULA USED TO COMPUTE THESE OTHER FEES AND PAYMENTS. IF ANY FEE IS REFUNDABLE, STATE THE CONDITIONS WHEN EACH FEE OR PAYMENT IS REFUNDABLE.

Item 6 Instructions:

- i. First disclose fees in tabular form. Use footnotes or a "remarks" column to elaborate on the information in the table or to disclose caveats. If elaborations are lengthy, use footnotes instead of a remarks column.
- ii. Disclose the amount of each fee. A dollar amount or a percentage of gross sales is acceptable if the term "gross sales" is defined. If dollar amounts may increase, disclose the formula which determines the increase or the maximum amount of the increase.
- iii. Disclose the due date for recurring payments.
- iv. If all fees are payable to only the franchisor, disclose this in a footnote.
- v. If all fees are imposed and collected by the franchisor, disclose this in a footnote.
- vi. If all fees are non-refundable, state this in a footnote.
- vii. Disclose the voting power of franchisor owned outlets on any fees imposed by cooperatives. If franchisor outlets have controlling voting power, disclose a range for the fee. Disclose this information in a footnote or a "remarks" column.
- viii. The franchisor need not repeat information contained in Items 8 & 9, but the table should direct the franchisees to those items.
- ix. Examples of fees are royalty, lease negotiation, construction, remodeling, additional training, advertising, group advertising, additional assistance, audit, accounting/inventory, and transfer and renewal fee.

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Sample Answer 6-1

Name of fee	Amount	Due Date	Remarks
Royalty(1)	4% of total gross sales	Payable monthly on the 10th day of the next month	Gross sales includes all revenue from the franchise location. Gross sales does not include sales tax or use tax.
Advertising(1)	2% of total gross sales	Same as Royalty fee	
Cooperative Advertising(1)	Maximum - 2% of gross sales	Established by franchisees	Franchisees may form an advertising cooperative and establish local advertising fees. Company owned stores have no vote in these cooperatives.
Additional Training(1)	\$1,000 per person	2 weeks prior to beginning of training	Belmont trains 2 persons free - See Item 11
Additional Assistance(1)	\$500 per day	30 days after billing	Belmont provides opening assistance free - See Item 11
Transfer(1)	\$1,000	Prior to consummation of transfer	Payable when you sell your franchise. No charge if franchise transferred to a corporation which you control
Audit(1)	Cost of audit plus 10% interest on underpayment(2)	30 days after billing	Payable only if audit shows an understatement of at least 2% of gross sales for any month
Renewal Fee(1)	\$1,000	30 days before renewal	

Notes:

(1) All fees are imposed by and are payable to Belmont. All fees are non-refundable.

(2) Interest begins from the date of the underpayment.

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Item 7

INITIAL INVESTMENT

DISCLOSE THE FOLLOWING EXPENDITURES STATING TO WHOM THE PAYMENTS ARE MADE, WHEN PAYMENTS ARE DUE, WHETHER EACH PAYMENT IS REFUNDABLE, THE CONDITIONS WHEN EACH PAYMENT IS REFUNDABLE, AND, IF PART OF THE FRANCHISEE'S INITIAL INVESTMENT IN THE FRANCHISE MAY BE FINANCED, AN ESTIMATE OF THE LOAN REPAYMENTS, INCLUDING INTEREST:

- A. REAL PROPERTY, WHETHER PURCHASED OR LEASED. IF NEITHER ESTIMABLE NOR DESCRIBABLE BY A LOW-HIGH RANGE, DESCRIBE REQUIREMENTS, SUCH AS PROPERTY TYPE, LOCATION AND BUILDING SIZE.
- B. EQUIPMENT, FIXTURES, OTHER FIXED ASSETS, CONSTRUCTION, REMODELINGS, LEASEHOLD IMPROVEMENTS AND DECORATING COSTS. WHETHER PURCHASED OR LEASED.
- C. INVENTORY REQUIRED TO BEGIN OPERATION.
- D. SECURITY DEPOSITS, UTILITY DEPOSITS, BUSINESS LICENSES, OTHER PREPAID EXPENSES.
- E. ADDITIONAL FUNDS REQUIRED BY THE FRANCHISEE BEFORE OPERATIONS BEGIN AND DURING THE INITIAL PHASE OF THE FRANCHISE.
- F. OTHER PAYMENTS THAT THE FRANCHISEE MUST MAKE TO BEGIN OPERATIONS.

Item 7 Instructions:

- i. Begin disclosure by listing expenditures in tabular form. List preopening expenses first. Use footnotes to comment on expected expenditures.
- ii. Disclose payments required by the franchise agreement and all costs necessary to begin operation of the franchise and operate the franchise during the initial phase of the business. A reasonable time for the initial phase of the business is at least 3 months or a reasonable period for the industry. Include an entry titled "additional funds" and disclose the length of the initial phase in the entry.
- iii. If a specific expenditure amount is not ascertainable, use a low-high range based on the franchisor's current experience. If real property costs cannot be estimated in a low-high range, disclose the approximate size of the property and building involved. Describe the probable location of the building (for example, strip shopping center, mall, downtown, rural or highway).

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- iv. The franchisor may include additional expenditure tables to show expenditure variations caused by differences in site location, premise size, etc. Describe in general terms the factors, basis, and experience that the franchisor considered or relied upon in formulating the amount required for additional funds.
- v. If the franchisor or an affiliate finances part of the initial investment, state the expenditures that it will finance. State the required down payment, annual percentage rate of interest, rate factors, and the estimated loan repayments. Make the discussion brief, and refer to Item 10.
- vi. Total the initial investment. This total should be the same as the total investment on the offering circular cover.

Sample Answer 7

YOUR ESTIMATED INITIAL INVESTMENT

	AMOUNT	METHOD OF PAYMENT	WHEN DUE	TO WHOM PAYMENT IS TO BE MADE
INITIAL FRANCHISE FEE	\$20,000 (Note 1)	Lump Sum	At Signing of Franchise Agreement	Belmont, Inc.
TRAVEL AND LIVING EXPENSES WHILE TRAINING	\$2,500 to \$5,000	As Incurred	During Training	Airlines, Hotels & Restaurants
REAL ESTATE AND IMPROVEMENTS	(Note 2)	(Note 2)	(Note 2)	(Note 2)
EQUIPMENT	\$40,000 (Note 3)	Lump Sum	Prior to Opening	Belmont or vendors
SIGNS	\$2,200	Lump Sum	Prior to Opening	Abbey Sign Company
MISCELLANEOUS	\$9,000	As	As	Suppliers,

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OPENING COSTS	(Note 4)	Incurred	Incurred	Utilities, etc.
OPENING INVENTORY	\$9,000 (Note 5)	Lump Sum	Prior to Opening	Belmont or vendors
ADVERTISING FEE-3 MONTHS	\$ 500	Monthly	Monthly	Belmont
ADDITIONAL FUNDS- 3 MONTHS	\$50,000 to \$75,000 (Note 6)	As Incurred	As Incurred	Employees, Suppliers Utilities
TOTAL	\$132,700 to \$160,200 (Note 7)	(Does not include real estate costs)		

Notes:

- (1) See Item 5 for the conditions when this fee is partly refundable. Belmont does not finance any fee.
- (2) If you do not own adequate shop space, you must lease the land and building for the Belmont Muffler Shop. Typical locations are light industrial and commercial areas. The typical Belmont Muffler Shop has 5,000 - 8,000 square feet. Former three or four bay gasoline service stations have been converted with relative ease into Belmont Muffler Shops. Rent is estimated to be between \$12,000 - \$20,000 per year depending on factors such as size, condition and location of the leased premises.
- (3) This payment is fully refundable before equipment installation. After installation, Belmont deducts \$3,000 installation costs from your refund.
- (4) Includes security deposits, utility costs, incorporation fee.
- (5) This payment is fully refundable before Belmont delivers your inventory. After delivery Belmont deducts a 10% restocking fee from your refund.
- (6) This estimates your start up expenses. These expenses include payroll costs. These figures are estimates and Belmont cannot guarantee that you will not have additional expenses starting the business. Your costs will depend on factors such as: how much you follow Belmont's methods and procedures; your management skill, experience and business acumen; local economic conditions; the local market for our product; the prevailing wage rate; competition; and the sales level reached

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during the initial period.

- (7) Belmont relied on its 30 years of experience in the muffler business to compile these estimates. You should review these figures carefully with a business advisor before making any decision to purchase the franchise.
- (8) Belmont does not offer direct or indirect financing to franchisees for any items.

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Item 8

RESTRICTIONS ON SOURCES
OF PRODUCTS AND SERVICES

DISCLOSE FRANCHISEE OBLIGATIONS TO PURCHASE OR LEASE FROM THE FRANCHISOR, ITS DESIGNEE OR FROM SUPPLIERS APPROVED BY THE FRANCHISOR OR UNDER THE FRANCHISOR'S SPECIFICATIONS. FOR EACH OBLIGATION DISCLOSE:

- A. THE GOODS, SERVICES, SUPPLIES, FIXTURES, EQUIPMENT, INVENTORY, COMPUTER HARDWARE AND SOFTWARE OR REAL ESTATE RELATING TO ESTABLISHING OR OPERATING THE FRANCHISED BUSINESS.
- B. THE MANNER IN WHICH THE FRANCHISOR ISSUES AND MODIFIES SPECIFICATIONS OR GRANTS AND REVOKES APPROVAL TO SUPPLIERS.
- C. WHETHER, AND FOR WHAT CATEGORIES OF GOODS AND SERVICES, THE FRANCHISOR OR ITS AFFILIATES ARE APPROVED SUPPLIERS OR THE ONLY APPROVED SUPPLIERS.
- D. WHETHER, AND, IF SO, THE PRECISE BASIS BY WHICH, THE FRANCHISOR OR ITS AFFILIATES WILL OR MAY DERIVE REVENUE OR OTHER MATERIAL CONSIDERATION AS A RESULT OF REQUIRED PURCHASES OR LEASES.
- E. THE ESTIMATED PROPORTION OF THESE REQUIRED PURCHASES AND LEASES TO ALL PURCHASES AND LEASES BY THE FRANCHISEE OF GOODS AND SERVICES IN ESTABLISHING AND OPERATING THE FRANCHISED BUSINESS.
- F. THE EXISTENCE OF PURCHASING OR DISTRIBUTION COOPERATIVES.

Item 8 Instructions:

- i. An obligation includes those imposed by written agreement or by the franchisor's practice. The franchisor may include the reason for the requirement.
- ii. Do not include goods or services provided as part of the franchise and without a separate charge (for example, a fee for initial training when the cost is included in the franchise fee). These fees should be described in Item 5. Do not include fees disclosed in response to Item 6.
- iii. For "precise basis," disclose the franchisor's total revenues and the franchisor's revenues from all required purchases and leases of products and services. Also, disclose the percentage of the franchisor's total revenues represented by the franchisor's revenues from required purchases or leases. If the franchisor's affiliates also sell or lease products or services to franchisees, disclose

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affiliate revenues from those sales or leases. These amounts should be taken from the franchisor's statement of operations (or profit and loss statement) from the most recent annual audited financial statement attached to the offering circular. If the franchisor's annual audited financial statement is not required to be attached to the offering circular or if the franchisor's affiliate sells or leases required products or services to franchisees, disclose the sources of information used in computing revenues.

- iv. State how the franchisor formulates and modifies specifications and standards imposed on franchisees.
- v. Disclose whether specifications and standards are issued to franchisees, subfranchisors, or approved suppliers.
- vi. Describe how suppliers are evaluated, approved or disapproved. Disclose whether the franchisor's criteria for supplier approval are available to franchisees. State the fees and procedure to secure approval and how approvals are revoked. State the time period when the franchisee will receive notification of approval or disapproval.
- vii. If the designated supplier will make payments to the franchisor because of transactions with franchisees, disclose the basis for the payment. Specify a percentage or a flat amount. Purchases of similar goods or services by the franchisor at a lower price than that available to franchisees is a payment.
- viii. Disclose whether the franchisor negotiates purchase arrangements with suppliers (including price terms) for the benefit of franchisees.
- ix. Disclose whether the franchisor provides material benefits (for example, renewal or granting additional franchises) to a franchisee based on a franchisee's use of designated or approved sources.
- x. Use Sample Answer 8-1 if the response to Item 8 is negative.

Sample Answer 8-1

Belmont has no required specifications, designated suppliers, or approved suppliers for goods, services or real estate relating to your franchise business. Belmont will not derive revenue from your purchases or leases.

Sample Answer 8-2

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You must purchase your pipe bending machine, hoist, cutting torch and suppliers under specifications in the operations manual. These specifications include standards for delivery, performance, design and appearance. You may purchase this equipment from Belmont. In the year ending December 31, 1992, Belmont's revenues from the sale of this equipment to franchisees was \$500,000, or 5% of Belmont's total revenues of \$10,000,000. The cost of equipment purchased in accordance with specifications represents 10% of your total purchases in connection with establishment of your store.

Belmont's affiliate, Muffler Supply Co., is an approved supplier of mufflers to franchisees. In the year ending December 31, 1992, the affiliate's revenues from the sale of mufflers to franchisees was \$2,000,000. The purchase of mufflers from approved sources will represent 15 to 20% of your overall purchases in operating the store. Belmont has approved other suppliers of mufflers and exhaust pipe. If you would like to purchase these items from another supplier, you may request our "Supplier Approval Criteria" and Request Form." Based on the information and samples you supply to us and your payment of a \$500 fee, we will test the items supplied and review the proposed supplier's financial records, business reputation, delivery performance, credit rating and other information. Our review typically is completed in 30 days.

One of the approved suppliers of mufflers and exhaust pipes, Scottie's Pipes, Inc., pays Belmont a rebate of 1% of all franchisee purchases, which is deposited in the Belmont Advertising Fund. Another approved supplier, Michael's Clean-Air, Inc., pays Belmont 2% of all franchisee purchases of catalytic converters. This amount is used in Belmont's training center for classes in catalytic converter repair and replacement.

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Item 9

FRANCHISEE'S OBLIGATIONS

DISCLOSE THE PRINCIPAL OBLIGATIONS OF THE FRANCHISEE UNDER THE FRANCHISE AND OTHER AGREEMENTS AFTER THE SIGNING OF THESE AGREEMENTS.

Item 9 Instructions:

i. Disclose obligations in tabular form. Refer to the section of the agreement that contains the obligation and any Item of the offering circular that further describes the obligation.

ii. The table should contain a response to each category listed below. If the response to any category is that no obligation is imposed, the table should state that. Do not change the names of the categories. Fit all obligations within the listed categories. If other material obligations fall outside the scope of all of the prescribed categories, add additional categories as needed. The categories of franchisee obligations are:

- a. Site selection and acquisition/lease
- b. Pre-opening purchases/leases
- c. Site development and other pre-opening requirements
- d. Initial and ongoing training
- e. Opening
- f. Fees
- g. Compliance with standards and policies/Operating Manual
- h. Trademarks and proprietary information
- i. Restrictions on products/services offered
- j. Warranty and customer service requirements
- k. Territorial development and sales quotas
- l. Ongoing product/service purchases
- m. Maintenance, appearance and remodeling requirements
- n. Insurance
- o. Advertising
- p. Indemnification
- q. Owner's participation/management/staffing
- r. Records and reports
- s. Inspections and audits
- t. Transfer
- u. Renewal
- v. Post-termination obligations
- w. Non-competition covenants
- x. Dispute resolution
- y. Other (describe)

iii. Before the table, state the following:

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THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATIONS IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Sample Answer 9

THIS TABLE LISTS YOUR PRINCIPAL OBLIGATIONS UNDER THE FRANCHISE AND OTHER AGREEMENTS. IT WILL HELP YOU FIND MORE DETAILED INFORMATION ABOUT YOUR OBLIGATION IN THESE AGREEMENTS AND IN OTHER ITEMS OF THIS OFFERING CIRCULAR.

Obligation	Section In Agreement	Item in Offering Circular
a. Site Selection and acquisition/lease	Section 2A of Franchise Agreement	Items 6 and 11
b. Pre-opening purchases/leases	Section 3D of Franchise Agreement	Item 8
c. Site development and other pre-opening requirements	Sections 3A and 3B of Franchise Agreement	Items 6, 7, and 11
d. Initial and ongoing training	Section 5 of Franchise Agreement	Item 11
e. Opening	Section 4 of Franchise Agreement	Item 11
f. Fees	Section 6 of Franchise Agreement	Items 5 and 6
g. Compliance with standards and policies/Operating Manual	Section 8A of Franchise Agreement	Item 11
h. Trademarks and proprietary	Sections 7 and 11	Items 13 and 14

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Information	of Franchise Agreement	Item
i. Restrictions on products/services offered	Section 12 of Franchise Agreement	Item 16
j. Warranty and customer service requirements	Section 8B of Franchise Agreement	Item 11
k. Territorial development and sales quotas	None	
l. Ongoing product/service purchases	Section 9 of Franchise Agreement	Item 8
m. Maintenance, appearance and remodeling requirements	Sections 8C and 10 of Franchise Agreement	Item 11
n. Insurance	Section 13A of Franchise Agreement	Items 6 and 8
o. Advertising	Section 15 of Franchise Agreement	Items 6 and 11
p. Indemnification	Section 13B of Franchise Agreement	Item 6
q. Owner's participation/management/staffing	Sections 4, 5 and 14 of Franchise Agreement	Items 11 and 15
r. Records/reports	Section 17A of Franchise Agreement	Item 6
s. Inspections/	Section 17B	Items 6 and 11

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audits

of Franchise
Agreement

t. Transfer

Section 18
of Franchise
Agreement

Item 17

u. Renewal

Section 20
of Franchise
Agreement

Item 17

v. Post-
termination
obligationsSection 22
of Franchise
Agreement

Item 17

w. Non-competition
covenantsSections 11,
18 and 22C
of Franchise
Agreement

Item 17

x. Dispute
resolutionSection 24
of Franchise
Agreement

Item 17

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Item 10

FINANCING

DISCLOSE THE TERMS AND CONDITIONS OF EACH FINANCING ARRANGEMENT THAT THE FRANCHISOR, ITS AGENT OR AFFILIATE OFFERS DIRECTLY OR INDIRECTLY TO THE FRANCHISEE.

Item 10 Instructions:

- i. "Financing" includes leases and installment contracts.
- ii. Payments due within 90 days on open account financing need not be disclosed under this Item.
- iii. A written arrangement between a franchisor or its affiliate and a lender for the lender to offer financing to the franchisee or an arrangement in which a franchisor or its affiliate receives a benefit from a lender for franchisee financing is an "indirect offer of financing" and must be disclosed under this Item. The franchisor's guarantee of a note, lease or obligation of the franchisee is an "indirect offer of financing" and must be disclosed under this Item.
- iv. If financing of the initial fee is disclosed in the Item 7 disclosure, a cross reference to Item 7 is sufficient if all the disclosure which Item 10 requires is provided in Item 7.
- v. If an affiliate offers financing, identify the affiliate and its relationship to the franchisor.
- vi. The franchisor may summarize the terms of each financing arrangement in tabular form, using footnotes to entries in the chart to provide additional information required by these instructions that does not fit in the chart.
- vii. If a financing arrangement is for the establishment of the franchised business, disclose what the financing covers, including:
 - a. Initial franchise fee;
 - b. Site acquisition;
 - c. Construction or remodeling;
 - d. Equipment or fixtures; and
 - e. Opening inventory or supplies.
- viii. If the franchisor generally offers financing for the operation of the franchised business, disclose what the financing arrangement covers, including:

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- a. Inventory or supplies;
- b. Replacement equipment or fixtures; and
- c. Other continuing expenses.
- ix. Disclose the terms of each financing arrangement, including:
- The identity of the lender(s) providing the financing and its relationship to the franchisor (for example, affiliate);
 - The amount of financing offered or, if the amount depends on an actual cost that may vary, the percentage of the cost that will be financed;
 - The annual percentage rate of interest ("APR") charged, computed as provided by Sections 106-107 of the Consumer Protection Credit Act, 15 USC §§6-67 Secs. 106-107. If the APR may differ depending on when the financing is issued, disclose the APR on a specified recent date;
 - The number of payments or the period of repayment;
 - Nature of security interest required by the lender;
 - Whether a person other than the franchisee (for example spouse, shareholder of the franchisee) must personally guarantee the debt;
 - Whether the debt can be prepaid and the nature of any prepayment penalty;
 - The franchisee's potential liabilities upon default, including any accelerated obligation to pay the entire amount due, court costs and attorney's fees for collection, and termination of the franchise, or other cross default clauses whether directly, as a result of non-payment, or indirectly, as a result of loss of necessary facilities; and
 - Other material financing terms.
- x. Include specimen copies of the financing documents as an exhibit to Item 22. Cite the section and name of the document containing the financing terms. Put this information in parentheses at the end of the description of the term.
- xi. Use Sample Answer 10-1 if the franchisor does not offer financing.
- A. A WAIVER OF DEFENSES OR SIMILAR PROVISIONS IN A DOCUMENT.

Item 10A Instructions:

- Disclose the terms of waivers of legal rights by the franchisee under the terms of the financing arrangement (for example confession of judgment).
- Describe provisions of the loan agreement that bar the franchisee from asserting a defense against the lender, the lender's assignee or the

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- franchisor.
- If the loan agreement does not contain the provisions in i. or ii., disclose that fact.
 - Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.
- B. THE FRANCHISOR'S PRACTICE OR ITS INTENT TO SELL, ASSIGN, OR DISCOUNT TO A THIRD PARTY ALL OR PART OF THE FINANCING ARRANGEMENT.
- Item 10B Instructions:
- Practice includes past or present practice and future intent to sell or assign franchisee financing arrangements.
 - Disclose the assignment terms including whether the franchisor will remain primarily obligated to provide the financed goods or services.
 - If the franchisor may sell or assign its rights under the financing agreement, disclose that the franchisee may lose all its defenses against the lender as a result of the sale or assignment.
 - Cite the section and name of the document containing these terms. Put this information in parentheses at the end of the description of the term.
 - If no disclosure is required by Instruction 10B, disclose that fact.
- C. PAYMENTS TO THE FRANCHISOR OR AN AFFILIATE(S) FOR THE PLACEMENT OF FINANCING WITH THE LENDER.
- Item 10C Instructions:
- Describe the payments.
 - If no disclosure is required by Instruction 10C i. for a financing arrangement, disclose that fact.
 - Identify the source of the payment and the relationship of the source to the franchisor or its affiliates.
 - Disclose the amount or the method of determining the payment.
 - Cite the section and name of the document containing these arrangements. Put this information in parentheses at the end of the description of the term.

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Sample Answer 10-1

Belmont does not offer direct or indirect financing. Belmont does not guarantee your note, lease or obligation.

Sample Answer 10-2

SAMPLE ANSWER 10-2 SUMMARY OF FINANCING OFFERED

ITEM FINANCED (Source)	AMOUNT FINANCED	DOWN PAYMENT	TERM MONTHLY PAYMENT (YRS)	APR %	PREPAY PENALTY	SECURITY REQUIRED	LIABILITY UPON DEFAULT	LOSS OF LEGAL RIGHT ON DEFAULT
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INITIAL FEE (NOTE 1) (BELMONT)	\$10,000		10	18	\$	NONE	LOSS OF FRANCHISE: UNPAID LOAN	WAIVE WARRANTY CONFESSION JUDGMENT
LAND/ CONSTRUCT	NONE							
LEASED SPACE (NOTE 2) (BELMONT)	\$2,000 (secur dep)		7-10	N/A	\$	NONE	LOSS OF FRANCHISE: BACK RENT- 2 MONTHS FRANCHISE RIGHTS ATTYS FEES	NONE
EQUIPMENT LEASE (NOTE 3) (USA CREDIT CORP.)	\$5,000	NONE	\$	15	\$	NONE	EQUIPMENT- PERSONAL GUARANTEE	LOSS OF ALL DEFENSES
EQUIPMENT PURCHASE (NOTE 4) (BELMONT)	\$3,750	\$1,250 (25%)	2-7	15	\$	\$500	EQUIPMENT- PERSONAL GUARANTEE FEES	NONE
OPENING INVENT.	NONE							
OTHER FINANCING	NONE							

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Notes:

(1) If you meet Belmont's credit standards, Belmont will finance the \$10,000 initial franchise fee over a 10-year period at an APR of 18%, using the standard form note in Exhibit A. The only security Belmont requires is a personal guarantee of the note by you and your spouse or by all the shareholders of your corporation. (Loan Agreement Section ____). The note can be prepaid without penalty at any time during its 10-year term. (Loan Agreement Section ____). If you do not pay on time, Belmont can call the loan and demand immediate payment of the full outstanding balance and obtain court costs and attorney's fees if a collection action is necessary. (Loan Agreement Section ____). Belmont also has the right to terminate your franchise if you do not make your payments on time more than three times during the note term. (Loan Agreement Section ____). You waive your rights to notice of a collection action and to assert any defenses to collection against Belmont. (Loan Agreement Section ____). Belmont discounts these notes to a third party who may be immune under the law to any defenses to payment you may have against Belmont. (Loan Agreement Section ____).

(2) In most cases Belmont will sublease the franchised premises to you but will guarantee your lease with a third party if you have acceptable credit and that is the only way to obtain an exceptional location. (Lease Section ____). The precise terms of Belmont's standard lease in Exhibit B will vary depending on the size and location of the premises, but the chart reflects a typical range of payments for Belmont's standard 6-day franchise outlet, including payment of one month's rent as a security deposit. (Lease Section ____). The only other security Belmont requires is a personal guarantee of the lease by you and your spouse or by all the shareholders of your corporation. (Lease Section ____). The lease can be prepaid without penalty at any time during its term. (Lease Section ____). If you do not make a rent payment on time, Belmont has the right to collect the unpaid rent plus an additional two months rent, as liquidated damages. (Lease Section ____). Belmont can also obtain court costs and attorney's fees if a collection action is necessary. (Lease Section ____). If you are late with your rent more than three times during the lease term, Belmont has the right to terminate the lease, take over the premises, and terminate your franchise. If Belmont guarantees your lease, Belmont will require you to sign the guarantee agreement in Exhibit F. (Lease Section ____). This gives Belmont the same legal rights as the sublease but requires you to give Belmont the right to approve your lease and pay the rent for you if you fail to pay on time. (Lease Section ____).

(3) If you want to lease the pipe bending machine and other equipment you need, Belmont has arranged an equipment lease (see Exhibit C) from USA Credit Corporation of Las Vegas, Nevada. If you choose this option,

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you will pay \$100 a month for 60 months (5 years) at an APR of 15% based on a cash price of \$5,000, with no money down. (Equipment Lease Section ____). At the end of the lease term, you may purchase the equipment with a one-time payment of \$2,500. (Equipment Lease Section ____). USA Credit requires a personal guarantee from you and your spouse or from all the shareholders of your corporation and retains a security interest in the equipment. (Equipment Lease Section ____). The equipment lease can be prepaid at any time, but the interest you might otherwise save will be reduced by application of the Rule of 78's for computing finance charges. (Equipment Lease Section ____). If you do not make a payment on time, USA Credit can demand payment of all past due payments, remove the equipment, and charge you \$1,000 as liquidated damages. (Equipment Lease Section ____). USA Credit can also recover its costs of collection, including court costs and attorney's fees. (Equipment Lease Section ____). While Belmont does not know USA Credit's policies, USA Credit may discount the lease to a third party who may be immune under the law to claims or defenses you may have against USA Credit, the equipment manufacturer or Belmont. Belmont receives a referral fee of \$500 from USA Credit for every franchisee who leases equipment from it.

(4) If you prefer, Belmont will sell you the pipe bending machine and other necessary equipment on time. (Equipment Purchase Agreement Section ____). Belmont requires a 25% down payment of \$1,250. (Equipment Purchase Agreement Section ____). Belmont will finance the remainder over a 2-7 year period at your option at an APR of 15%. (Equipment Purchase Agreement Section ____). Payments range from \$228.11 a month over 7 years to \$821.58 a month over 2 years. (Equipment Purchase Agreement Section ____). Belmont's standard equipment financing note in Exhibit D must be personally guaranteed by you and your spouse or by all the shareholders of your corporation, and Belmont will retain a security interest in the equipment. (Equipment Purchase Agreement Section ____). You may purchase the equipment at any time during the lease period by paying the remainder of the principal plus a \$500 prepayment penalty. (Equipment Purchase Agreement Section ____). If you do not make a payment on time, Belmont can demand all overdue payments, repossess the equipment, and terminate your franchise. Belmont can also recover its costs of collection, including court costs and attorney's fees. (Equipment Purchase Agreement Section ____).

Except as disclosed in Note 1, Belmont does not offer financing that requires you to waive notice, confess judgment or waive a defense against Belmont or the vendor, although you may lose your defenses against Belmont and others in a collection action on a note that is sold or discounted, as disclosed in Notes 2 and 3.

Except as disclosed in Note 3, Belmont does not arrange financing from other

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sources.

Except as disclosed in Notes 1 and 3, commercial paper from franchisees has not been and is not sold or assigned to anyone, and Belmont has no plans to do so.

Except as disclosed in Note 3, Belmont does not receive direct or indirect payments for placing financing.

Except as disclosed in Note 2, Belmont does not guarantee your obligations to third parties.

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Item 11

FRANCHISOR'S OBLIGATIONS

DISCLOSE THE FOLLOWING:

A. THE OBLIGATIONS THAT THE FRANCHISOR WILL PERFORM BEFORE THE FRANCHISE BUSINESS OPENS. CITE BY SECTION THE PROVISIONS OF THE AGREEMENT REQUIRING PERFORMANCE.

Item 11A Instructions:

- i. Begin the disclosure by stating: "Except as listed below, the franchisor need not provide any assistance to you."
- ii. Pre-opening obligations include assistance to:
 - a. Locate a site for the franchised business and negotiate the purchase or lease of this site. State whether the franchisor generally owns the premises and leases it to the franchisee;
 - b. Conform the premises to local ordinances and building codes and obtain the required permits (i.e., health, sanitation, building, driveway, utility and sign permits);
 - c. Construct, remodel or decorate the premises for the franchised business;
 - d. Purchase or lease equipment, signs, fixtures, opening inventory and supplies. Disclose whether the franchisor provides these items directly or merely the names of approved suppliers. Disclose whether the franchisor provides written specifications for these items. Disclose whether the franchisor delivers or installs these items. (The franchisor may cross reference Item 8 for details); and
 - e. Hire and train employees.
- iii. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses. Use this format throughout this item.

B. THE OBLIGATIONS TO BE MET BY THE FRANCHISOR DURING THE OPERATION OF THE FRANCHISE BUSINESS.

Item 11B Instructions:

- i. Include assistance in:
 - a. Products or services to be offered by the franchisee to its customers;
 - b. Hiring and training of employees;

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- c. Improvements and developments in the franchised business;
- d. Pricing;
- e. Administrative, bookkeeping, accounting and inventory control procedures; and
- f. Operating problems encountered by the franchisee.

ii. For the franchisor's advertising program for the product or service offered by the franchisee:

- a. Disclose the media in which the advertising may be disseminated (for example, print, radio, or television).
- b. Disclose whether the coverage of the media is local, regional, or national in scope.
- c. Disclose the source of the advertising (for example, in-house advertising department, a national or regional advertising agency).
- d. Disclose the conditions when the franchisor permits franchisees to use their own advertising material.
- e. If there is an advertising council composed of franchisees that advises the franchisor on advertising policies, disclose:
 - (1) How members of the council are selected.
 - (2) Whether the council serves in an advisory capacity only or has operational or decision-making power.
 - (3) Whether the franchisor has the power to form, change, or dissolve the advertising council.
- f. If the franchisee must participate in a local or regional advertising cooperative, disclose:
 - (1) How the area or membership of the cooperative is defined.
 - (2) How the franchisee's contribution to the cooperative is calculated (may reference Item 6).
 - (3) Who is responsible for administration of the cooperative (for example, franchisor, franchisees, advertising agency).
 - (4) Whether cooperatives must operate from written governing documents and whether the documents are available for review by the franchisee.
 - (5) Whether cooperatives must prepare annual or periodic financial statements and whether the statements are available for review by the franchisee.
 - (6) Whether the franchisor has the power to require cooperatives to be formed, changed, dissolved or merged.
- g. If applicable, for each advertising fund not described in above subsection (f), disclose:
 - (1) Who contributes to each fund (for example, franchisees, franchisor, franchisor-owned units, outside vendors or suppliers).
 - (2) Whether the franchisor-owned units must contribute to the fund and, if so, whether it is on the same basis as franchisees.

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- (3) How much the franchisee must contribute to the advertising fund(s) (may reference item 6) and whether other franchisees are required to contribute at a different rate (it is not necessary to disclose the specific rates).
- (4) Who administers the fund(s). Whether the fund is audited and when, and whether financial statements of the fund are available for review by the franchisee.
- (5) Use of the fund(s) in the most recently concluded fiscal year, the percentages spent on production, media placement, administrative expenses, and other (with a description of what constitutes "other"). Totals should equal 100%.
- (6) Whether the franchisor or an affiliate receives payment for providing goods or services to an advertising fund.
- h. State whether the franchisor must spend any amount on advertising in the area or territory where the franchisee is located.
- i. If all advertising fees are not spent in the fiscal year in which they accrue, explain how the franchisor uses the remaining amounts. Indicate whether franchisees will receive a periodic accounting of how advertising fees are spent.
- j. Disclose the percentage of advertising funds, if any, used for advertising that is principally a solicitation for the sale of franchisees.
- k. Cross reference Items 6, 8 and 9.

iii. If the franchisor requires that franchisees buy or use electronic cash register or computer systems, provide a general description of the systems in non-technical language:

- a. Identify each hardware component and software program by brand, type and principal functions.
- (1) If the hardware component or software program is the proprietary property of the franchisor, an affiliate or a third party, state whether the franchisor, an affiliate or a third party has the contractual right or obligation to provide ongoing maintenance, repairs, upgrades or updates. Disclose the current annual cost of any optional or required maintenance and support contracts, upgrades and updates.
- (2) If the hardware component or software program is the proprietary property of a third party, and no compatible equivalent component or program has been approved by the franchisor for use with the system to perform the same functions, identify the third party by name, business address and telephone number, and state the length of time the component or program has been in continuous use by the franchisor and its franchisees.
- (3) If the hardware component or software program is not proprietary, identify compatible equivalent components or programs that perform the same functions and indicate

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- whether they have been approved by the franchisor.
- b. State whether the franchisee has any contractual obligation to upgrade or update any hardware component or software program during the term of the franchise, and if so, whether there are any contractual limitations on the frequency and cost of the obligation.
- c. For each electronic cash register system or software program, describe how it will be used in the franchisee's business, and the type of business information or data that will be collected and generated. State whether the franchisor will have independent access to the information and data, and if so, whether there are any contractual limitations on the franchisor's right to access the information and data.
- iv. After describing the obligation, cite the section number of the agreement imposing the obligation. Put the citation in parentheses.
- v. Disclose if the franchisor is not obligated to provide or to assist the franchisee to obtain the above items or services.
- vi. Do not repeat, but do cross reference disclosure made in Item 6.
- vii. Disclose the table of contents of the operating manual(s) provided to the franchisee as of the franchisor's last fiscal year end or a more recent date. State the number of pages devoted to each subject and the total number of pages in the manual as of this date. Alternatively, this disclosure may be omitted if the prospective franchisee views the manual before purchase of the franchise.
- C. THE METHODS USED BY THE FRANCHISOR TO SELECT THE LOCATION OF THE FRANCHISEE'S BUSINESS.
- Item 11C Instructions:
- i. Disclose whether the franchisor selects the site or approves an area within which the franchisee selects a site. Disclose how and whether the franchisor must approve a franchisee selected site.
- ii. Disclose the factors which the franchisor considers in selecting or approving sites (for example, general location and neighborhood, traffic patterns, parking, size, physical characteristics of existing buildings and lease terms).
- iii. Disclose the time limit for the franchisor to locate or to approve or disapprove the site. Disclose the consequences if the franchisor and franchisee cannot agree on a site.
- iv. Disclosure made in response to Item 11A need not be repeated or cross

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referenced in the response to Item 11C.

D. THE TYPICAL LENGTH OF TIME BETWEEN THE SIGNING OF THE FRANCHISE AGREEMENT OR THE FIRST PAYMENT OF CONSIDERATION FOR THE FRANCHISE AND THE OPENING OF THE FRANCHISEE'S BUSINESS.

Item 11D Instructions:

- i. Disclosure may be a range of times if the range is specific.
- ii. Describe the factors which may affect the time period such as ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, or delayed installation of equipment, fixtures and signs.

E. THE TRAINING PROGRAM OF THE FRANCHISOR AS OF THE FRANCHISOR'S LAST FISCAL YEAR END OR A MORE RECENT DATE INCLUDING:

- (1) The location, duration and general outline of the training program;
- (2) How often the training program will be conducted;
- (3) The experience that the instructors have with the franchisor;
- (4) Charges to be made to the franchisee and who must pay travel and living expenses of the enrollees in the training program;
- (5) If the training program is not mandatory, the percentage of new franchisees that enrolled in the training program during the preceding 12 months; and
- (6) Whether any additional training programs and/or refresher courses are required.

F. DESCRIBE THE NATURE AND EXTENT OF TRAINING UNDER THE FRANCHISOR'S TRAINING PROGRAM.

Item 11F Instructions:

- i. Use a table to state the subjects taught and the number of hours of classroom and "on the job training" devoted to each subject in the franchisor's training program. Use footnotes to explain.
- ii. For each subject disclose the training location and how often training classes are held.
- iii. Describe the location or facility where the training is held (for example, company, home, office, company owned store).
- iv. State how long after the signing of the agreement or before the opening date of the business the franchisee must complete the required training.

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v. Describe the nature of instruction material. Disclose the minimum experience of the instructors. Disclose only experience that is relevant to the subject taught and the franchisor's operations.

vi. State who may and who is required to attend the training. State whether the franchisee or other persons must complete the program to the franchisor's satisfaction.

vii. Charges for training or training materials should be disclosed in Item 5 if the obligation to pay arises before the franchise location opens.

viii. Disclose who pays the travel and living expenses of the persons receiving the training.

Sample Answer 11

Except as disclosed below, Belmont need not provide any assistance to you.

Before you open your business, Belmont will:

- (1) Designate your exclusive territory (Franchise Agreement - paragraph 2).
- (2) Assist you in selecting a business site. Your site must be at least square feet in area, have parking spaces, and an average of cars per hour driving by. We must approve or disapprove your site within 20 days after we receive notice of the location.
- (3) Within 30 days of your signing the Franchise Agreement, assist you to find and negotiate the lease or purchase of a location for your muffler shop (Franchise Agreement - paragraph _____). Your store location will be purchased or leased by you from independent third parties.
- (4) Within 60 days of your signing the Franchise Agreement, provide written specifications for store construction or remodeling and for all required and replacement equipment, inventory and supplies (Franchise Agreement - paragraph _____). See Item 8 of this offering circular.
- (5) Within 60 days of your signing the Franchise Agreement, provide blueprints for your store construction or remodeling and obtain

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You may develop advertising materials for your own use, at your own cost. Belmont must approve the advertising materials in advance and in writing.

Belmont occasionally provides for placement of advertising on behalf of the entire Belmont system, including franchisees. However, most placement is done on a local basis, typically by local advertising agencies hired by individual franchisees or advertising cooperatives. Belmont reserves the right to use advertising fees from the Belmont system to place advertising in national media (including broadcast, print or other media) in the future. In the past Belmont has used an outside advertising agency to create and place advertising. Neither Belmont nor its affiliate receives payment from the National Fund. Advertising funds are used to promote the product sold by the franchisee and are not used to sell additional franchisees.

The National Fund is a nonprofit corporation which collects advertising fees from all franchisees. Each franchisor owned store of Belmont contributes to the National Fund on the same basis as franchisees. All payments to the National Fund must be spent on advertising, promotion and marketing of goods and services provided by Belmont Muffler Shops. You must contribute the amounts described in item 6, under the heading "Advertising Fees and Expenses."

The National Fund is administered by Belmont's accounting and marketing personnel under the direction of the Advertising Council. An annual audited financial statement of the National Fund is available to any franchisee upon request. During the last fiscal year of the National Fund (ending on December 31, 1990), the National Fund spent 39% of its income on the production of advertisements and other promotional materials, 36% for media placement, 18% for general and administrative expenses, and 7% for other expenses (the purchase of glassware given to customers of Belmont shops as part of a promotional campaign).

The Advertising Council acts as the board of directors of the National Fund. The Advertising Council has 8 members: the President, Treasurer, Vice President-Marketing, and Vice President-Operations of Belmont; and 4 franchisee representatives who are elected by the governing board of the Belmont Franchise Association.

Once your shop opens, you must participate in the local advertising cooperative established in the Area of Dominant Influence (ADI) where your store is located. The amount of your contribution to the local advertising cooperative is described in Item 6 under the heading "Advertising Fees and Expenses."

Each local advertising cooperative must adopt written governing documents. A copy of the governing documents of the cooperative (if one has been established) for your ADI is available upon request. Each cooperative may determine its own voting procedures; however, each company-owned Belmont Shop will be entitled to one vote in any local advertising cooperative. The members and their elected officers are responsible for administration of the

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health, sanitation, building, utility and sign permits for your premises. You pay for the construction or remodeling (Franchise Agreement - paragraph _____).

(6) Within 60 days of your signing the Franchise Agreement, train you and one other person as follows:

Subject	Time Begun	Instructional Material	Hours of Class Room Training	Hours of on the Job Training	Instructor

Belmont does not charge for this training or service, but you must pay the travel and living expenses for you and your employees. All training occurs at Belmont's Jackson, Minnesota headquarters.

During the operation of the franchised business, Belmont will:

- (1) Develop new products and methods and provide you with information about developments (Franchise Agreement - paragraph _____).
- (2) Loan you a copy of our operations manual which contains mandatory and suggested specifications, standards and procedures. This manual is confidential and remains our property. Belmont will modify this manual, but the modification will not alter your status and rights under the Franchise Agreement (Franchise Agreement - paragraph _____). The table of contents is as follows:

Each week for the first 90 days after you open your shop, Belmont will telephone to discuss your operational problems.

Belmont will hold annual conferences to discuss sales techniques, personnel training, bookkeeping, accounting, inventory control, performance standards, advertising program and merchandising procedures. There is no conference fee, but you must pay all your travel and living expenses. These elective conferences are held at our Jackson, Minnesota headquarters or at a location chosen by a majority vote of all franchisees.

Belmont provides advertising materials and services to you through a national advertising fund (the "National Fund"). Materials provided by the National Fund to all franchisees include video and audio tapes, mats, posters, banners and miscellaneous point-of-sale items. You will receive one sample of each at no charge. If you want additional copies you must pay duplication costs.

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cooperative. Advertising cooperatives must prepare quarterly and annual financial statements. The annual financial statement must be prepared by an independent CPA and be made available to all franchisees in that advertising cooperative.

You select your business site within your exclusive area subject to our approval. Belmont assists in site selection by telling you the number of new car registrations, population density, traffic patterns and proximity of the proposed site to other Belmont Muffler Shops.

Franchisees typically open their shops 4 to 7 months after they sign a franchise agreement. The factors that affect this time are the ability to obtain a lease, financing or building permits, zoning and local ordinances, weather conditions, shortages, and delayed installation of equipment fixtures and signs.

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Item 12
TERRITORY

DESCRIBE ANY EXCLUSIVE TERRITORY GRANTED THE FRANCHISEE CONCERNING THE FRANCHISEE'S LOCATION (WITH OR WITHOUT EXCLUSIVE TERRITORY), DISCLOSE WHETHER:

A. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH ANOTHER FRANCHISEE WHO MAY ALSO USE THE FRANCHISOR'S TRADEMARK.

B. THE FRANCHISOR HAS ESTABLISHED OR MAY ESTABLISH A COMPANY-OWNED OUTLET OR OTHER CHANNELS OF DISTRIBUTION USING THE FRANCHISOR'S TRADEMARK.

Item 12 Instructions:

- i. As used in Item 12, trademark includes name, trademarks, logos and other commercial symbols.
- ii. If appropriate, describe the minimum area granted to the franchisee. The franchisor may use an area encompassed within a specific radius, a distance sufficient to encompass a specified population or another specific designation.
- iii. State whether the franchise is granted for a specific location or a location to be approved by the franchisor.
- iv. If appropriate, state the conditions under which the franchisor will approve the relocation of the franchised business or the establishment of additional franchised outlets.
- v. Describe restrictions on the franchisor regarding operating company-owned stores or on granting franchised outlets for a similar or competitive business within the defined area.
- vi. Describe restrictions on franchisees from soliciting or accepting orders outside of their defined territories.
- vii. Describe restrictions on the franchisor from soliciting or accepting order inside the franchisee's defined territory. State compensation that the franchisor must pay for soliciting or accepting orders inside the franchisee's defined territories.
- viii. Describe franchisees options, rights of first refusal or similar rights to acquire additional franchises within the territory or contiguous territories.
- ix. If the franchisor does not grant territorial rights, use Sample Answer 12-1.

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C. THE FRANCHISOR OR ITS AFFILIATE HAS ESTABLISHED OR MAY ESTABLISH OTHER FRANCHISES OR COMPANY-OWNED OUTLETS OR ANOTHER CHANNEL OF DISTRIBUTION SELLING OR LEASING SIMILAR PRODUCTS OR SERVICES UNDER A DIFFERENT TRADEMARK.

Item 12C Instructions:

- i. "Similar products and services" includes competing, interchangeable or substitute products but not products or services which are not part of the same product or service market.
- ii. If the franchisor or an affiliate operates, franchises or has present plans to operate or franchise a business under a different trademark and that business sells goods or services similar to those to be offered by the franchisee, describe:
 - a. The similar goods and services;
 - b. The trade names and trademarks;
 - c. Whether outlets will be franchisor owned or operated;
 - d. Whether the franchisor or its franchisees who use the different trademark will solicit or accept orders within the franchisee's territory;
 - e. A timetable for the plan;
 - f. How the franchisor will resolve conflicts between the franchisor and the franchisees and between the franchisees of each system regarding territory, customers or franchisor support; and
 - g. If appropriate, disclose the principal business address of the franchisor's similar operating business. If it is the same as the franchisor's principal business address disclosed in Item 1, disclose whether the franchisor maintains (or plans to maintain) physically separate offices and training facilities for the similar competing business.

D. CONTINUATION OF THE FRANCHISEE'S TERRITORIAL EXCLUSIVITY DEPENDS ON ACHIEVEMENT OF A CERTAIN SALES VOLUME, MARKET PENETRATION OR OTHER CONTINGENCY AND UNDER WHAT CIRCUMSTANCES THE FRANCHISEE'S TERRITORY MAY BE ALTERED.

Item 12D Instructions:

- i. Disclose conditions for the franchisee's keeping its territorial rights (for example, sales quotas or the opening of additional business outlets). Specify the quotas or conditions and the franchisor's rights if the franchisee fails to meet the requirements.
- ii. Disclose other circumstances that permit the franchisor to modify the franchisee's territorial rights (for example, a population increase in the territory giving the franchisor the right to grant an additional franchise within the area). Disclose the effect on the franchisee's rights.

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Sample Answer 12-1

You will not receive an exclusive territory. Belmont may establish other franchised or company owned outlets that may compete with your location.

Sample Answer 12-2

You will receive an exclusive territory with a minimum population of 50,000 people. You will operate from one location and must receive Belmont's permission before relocating. Belmont will not operate stores or grant franchises for a similar or competitive business within your area. Except when advertising cooperatively with appropriate franchisees, neither Belmont nor you can advertise or solicit orders within another franchisee's territory. You and Belmont can accept orders from outside your territory without special payment.

You do not receive the right to acquire additional franchises within your area.

There is no minimum sales quota. You maintain rights to your area even though the population increases.

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Item 13

TRADEMARKS

DISCLOSE THE PRINCIPAL TRADEMARKS TO BE LICENSED TO THE FRANCHISEE INCLUDING:

Item 13 Instructions:

- i. As used in Item 13, "principal trademarks" means the primary trademarks, service marks, names, logos and symbols to be used by the franchisee to identify the franchised business. It does not include every trademark owned by a franchisor.
- ii. The franchisor may limit Item 13 disclosure to information that is relevant to the state where the franchised business will be located. The franchisor may include all states to eliminate the need for multiple disclosure in Item 13 but must amend its offering circular to reflect any material change in the list.

A. WHETHER THE PRINCIPAL TRADEMARKS ARE REGISTERED WITH THE UNITED STATES PATENT AND TRADEMARK OFFICE. FOR EACH REGISTRATION STATE THE REGISTRATION DATE AND NUMBER AND WHETHER THE REGISTRATION IS ON THE PRINCIPAL OR SUPPLEMENTAL REGISTER.

Item 13A Instructions:

- i. Identify each principal trademark which the franchisee may use. The franchisor may reproduce these trademarks in this Item.
- ii. State the date and identification number of each trademark registration or registration application listed. State whether the franchisor has filed all required affidavits. State whether any registration has been renewed.

- iii. State whether the principal trademarks are registered on the principal or supplemental register of the U.S. Patent and Trademark Office, and if not, whether an "intent to use" application or an application based on actual use has been filed with the U.S. Patent and Trademark Office. If the principal trademark to be used by the franchisee is not registered on the Principal Register of the U.S. Patent and Trademark Office, state:

By not having a principal federal registration for (name or description of symbol), (name of franchisor) does not have certain presumptive legal rights granted by a registration.

B. DISCLOSE CURRENTLY EFFECTIVE MATERIAL DETERMINATIONS OF THE PATENT AND TRADEMARK OFFICE, TRADEMARK TRIAL AND APPEAL BOARD, THE TRADEMARK ADMINISTRATOR

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OF THIS STATE OR ANY COURT; PENDING INFRINGEMENT, OPPOSITION OR CANCELLATION; AND PENDING MATERIAL LITIGATION INVOLVING THE PRINCIPAL TRADEMARKS.

Item 13B Instructions:

- i. Litigation or an action is material if it could significantly affect the ownership or use of a trademark listed under Item 13. Describe how the determination affects the ownership, use or licensing. Describe any decided infringement, cancellation or opposition proceedings. Include infringement, opposition or cancellation proceedings in which the franchisor unsuccessfully sought to prevent registration of a trademark in order to protect a trademark licensed by the franchisor.

- ii. For pending material federal or state litigation regarding the franchisor's use or ownership rights in a trademark disclose:

- a. The forum and case number;
- b. The nature of claims made opposing the franchisor's use or by the franchisor opposing another person's use; and
- c. Any effective court or administrative agency ruling concerning the matter.

- iii. Do not repeat disclosure made in response to Item 13A.

- iv. The franchisor need not disclose historical challenges to registrations of trademarks listed in Item 13 that were resolved in the franchisor's favor.

- v. The franchisor may include an attorney's opinion relative to the merits of litigation or of an action if the attorney issuing the opinion consents to its use. The text of the disclosure may include a summary of the opinion if the full opinion is attached and the attorney issuing the opinion consents to the use of the summary.

C. DISCLOSE AGREEMENTS CURRENTLY IN EFFECT WHICH SIGNIFICANTLY LIMIT THE RIGHTS OF THE FRANCHISOR TO USE OR LICENSE THE USE OF TRADEMARKS LISTED IN ITEM 13 IN A MANNER MATERIAL TO THE FRANCHISEE.

Item 13C Instructions:

For each agreement disclose:

- i. The manner and extent of the limitation or grant;
- ii. The agreement's duration;
- iii. The parties to the agreement;

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iv. The circumstances under which the agreement may be cancelled or modified; and

v. All other material terms.

D. WHETHER THE FRANCHISOR MUST PROTECT THE FRANCHISEE'S RIGHT TO USE THE PRINCIPAL TRADEMARKS LISTED IN ITEM 13, AND MUST PROTECT THE FRANCHISEE AGAINST CLAIMS OF INFRINGEMENT OR UNFAIR COMPETITION ARISING OUT OF THE FRANCHISEE'S USE OF THEM.

Item 13D Instructions:

i. Disclose the franchisee's obligation to notify the franchisor of the use of, or claims of rights to, a trademark identical to, or confusingly similar to, a trademark licensed to the franchisee.

ii. State whether the franchise agreement requires the franchisor to take affirmative action when notified of these uses or claims. Identify who has the right to control administrative proceedings or litigation.

iii. State whether the franchise agreement requires the franchisor to participate in the franchisee's defense and/or indemnify the franchisee for expenses or damages if the franchisee is a party to an administrative or judicial proceeding involving a trademark licensed by the franchisor to the franchisee, or if the proceeding is resolved unfavorably to the franchisee.

iv. Disclose the franchisee's rights under the franchise if the franchisor requires the franchisee to modify or discontinue the use of a trademark as a result of a proceeding or settlement.

E. WHETHER THE FRANCHISOR ACTUALLY KNOWS OF EITHER SUPERIOR PRIOR RIGHTS OR INFRINGING USES THAT COULD MATERIALLY AFFECT THE FRANCHISEE'S USE OF THE PRINCIPAL TRADEMARKS IN THIS STATE OR THE STATE IN WHICH THE FRANCHISED BUSINESS IS TO BE LOCATED.

Item 13E Instructions:

For each use of a principal trademark that the franchisor believes constitutes an infringement that could materially affect the franchisee's use of a trademark, state:

- i. The location(s) where the infringement is occurring;
- ii. To the extent known, the length of time of the infringement; and
- iii. Action taken by the franchisor.

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If the franchisor knows of a use of a trademark by another in a geographic area relevant to the franchisee which is or is likely to be based on a claim of superior prior rights to the franchisor's, state the nature of the use by the other person and the place or area where it is occurring.

Sample Answer 13

Belmont grants you the right to operate a shop under the name Belmont Muffler Shop. You may also use our other current or future trademarks to operate your shop. By trademark Belmont means trade names, trademarks, service marks and logos used to identify your shop. Belmont registered the below trademark on the United States Patent and Trademark Office principal register:

You must follow our rules when you use these marks. You cannot use a name or mark as part of a corporate name or with modifying words, designs or symbols except for those which Belmont licenses to you. You may not use Belmont's registered name in connection with the sale of an unauthorized product or service or in a manner not authorized in writing by Belmont.

On June 4, 1973, the United States Patent and Trademark Office rejected Belmont's application to register the mark "Super Mufflers" because the mark was found to be confusingly similar to a registered mark. Belmont's inability to register this mark on a federal level permits others to establish rights to use the mark. This use will not be in areas where our franchisees are operating, or advertising under the mark, or in the natural zone of expansion for Belmont's shops. In addition, these users must act in good faith and without actual knowledge of Belmont's prior use of the mark. However, if others establish rights to use Belmont's mark, Belmont may not be able to expand into these areas using the mark.

No agreements limit Belmont's right to use or license the use of Belmont's trademarks.

You must notify Belmont immediately when you learn about an infringement of, or challenge to, your use of our trademark. Belmont will take the action we think appropriate. While Belmont is not required to defend you against a claim against your use of our trademark, Belmont will reimburse you for your liability and reasonable costs in connection with defending Belmont's trademark. To receive reimbursement you must have notified Belmont immediately when you learned about the infringement or challenge.

You must modify or discontinue the use of a trademark if Belmont modifies or

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discontinues it. If this happens, Belmont will reimburse you for your tangible costs of compliance (for example, changing signs). You must not directly or indirectly contest our right to our trademarks, trade secrets or business techniques that are part of our business.

Belmont does not know of any infringing uses that could materially affect your use of Belmont's trademark.

or

John E. Jones, 4231 Main Street, Reno, Nevada is currently doing business as Belmont Muffler Shoppe at 4231 Main Street, Reno, Nevada. We believe that this is an infringing use of our federally registered trademark "Belmont Muffler Shop," and we have filed an action to enjoin Mr. Jones and to recover damages. If the court holds that Mr. Jones' use is not infringing, Belmont may not be able to use Belmont's trademark in Mr. Jones' immediate area. (Belmont Muffler Shop v. Belmont Muffler Shoppe-cite)

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Item 14

PATENTS, COPYRIGHTS AND PROPRIETARY INFORMATION

IF THE FRANCHISOR OWNS RIGHTS IN PATENTS OR COPYRIGHTS THAT ARE MATERIAL TO THE FRANCHISE, DESCRIBE THESE PATENTS AND COPYRIGHTS AND THEIR RELATIONSHIP TO THE FRANCHISE. INCLUDE THEIR DURATION AND WHETHER THE FRANCHISOR CAN AND INTENDS TO RENEW THE COPYRIGHTS. TO THE EXTENT RELEVANT, DISCLOSE THE INFORMATION REQUIRED BY ITEM 13 CONCERNING THESE PATENTS AND COPYRIGHTS. IF THE FRANCHISOR CLAIMS PROPRIETARY RIGHTS IN CONFIDENTIAL INFORMATION OR TRADE SECRETS, DISCLOSE THEIR GENERAL SUBJECT MATTER AND THE TERMS AND CONDITIONS FOR USE BY THE FRANCHISEE.

Item 14 Instructions:

- i. State the patent number, issue date and title for each patent. State the serial number, filing date and title of each patent application. Describe the type of patent or patent application (for example mechanical, process, or design). State the registration number and date of each copyright.
- ii. Describe the relationship of the patent, patent application or copyright to the franchised business.
- iii. Describe any current determination of the Patent and Trademark Office, Copyright Office (Library of Congress) or court regarding the patent or copyright. Include the forum, case number and effect on the franchised business.
- iv. State the forum, case number, claims asserted, issues involved and effective determinations for any proceedings pending in the Patent and Trademark Office or the Court of Appeals for the Federal Circuit.
- v. If counsel consents, the franchisor may include a counsel's opinion or a summary of the opinion about patent or copyright issues discussed in this item.
- vi. If an agreement limits the use of the patent, patent application or copyright, state the parties to and duration of the agreement, the extent to which the franchisee may be affected by the agreement, and other material terms of the agreement.
- vii. Disclose the franchisor's obligation to protect the patent, patent application or copyright. State:
 - a. Whether franchisee must notify the franchisor of claims or infringements or if the action is discretionary.
 - b. Whether the franchisor must take affirmative action when notified

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- of infringement or if the action is discretionary.
- c. Who has the right to control litigation.
- d. Whether the franchisor must participate in the defense of a franchisee or indemnify the franchisee for expenses or damages in a proceeding involving a patent, patent application or copyright licensed to the franchisee.
- e. Requirements that the franchisee modify or discontinue use of the subject matter covered by the patent or copyright.
- f. Franchisee's rights if the franchisor requires the franchisee to modify or discontinue the use of the subject matter covered by the patent or copyright.
- viii. If the franchisor actually knows of an infringement that could materially affect the franchisee, state:
- The nature of the infringement.
 - The location(s) where the infringement is occurring.
 - The length of time of the infringement.
 - Action taken or anticipated by the franchisor.
- ix. State whether the franchisor intends to renew the copyright when the registration expires.
- x. Discuss in general terms other proprietary information communicated to the franchisee (for example, whether there is a formula or recipe considered to be a trade secret).
- xi. Use Sample Answer 14-1 if no patents or copyrights are material to the franchisee.

Sample Answer 14-1

No patents or copyrights are material to the franchisee.

Sample Answer 14-2

You do not receive the right to use an item covered by a patent or copyright, but you can use the proprietary information in Belmont's Operations Manual. The Operations Manual is described in Item 11. Although Belmont has not filed an application for a copyright registration for the Operations Manual, it claims a copyright and the information is proprietary. Item 11 describes limitations on the use of this manual by you and your employees.

You must also promptly tell us when you learn about unauthorized use of this

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proprietary information. Belmont is not obligated to take any action but will respond to this information as we think appropriate. Belmont will indemnify you for losses brought by a third party concerning your use of this information.

Sample Answer 14-3

U.S. Patent 3999442 was issued on December 14, 1980. It describes a process for exhaust system installation. The process describes the steps in making a straight length of exhaust pipe, bending this pipe, coating the inside and outside of this pipe with our Pipe Protector and installing the exhaust pipe on a motor vehicle. You will use equipment utilizing this process.

On December 15, 1970, Belmont obtained a copyright registration for its Operations Manual under Registration A41139. Amendments to the manual were registered on January 7, 1983 (Reg. A521,371) and June 6, 1974 (Reg. A 541,333). Belmont intends to renew these copyrights. Item 11 of this Offering Circular describes the Operations Manual and the manner in which you are permitted to use it.

Belmont's right to use or license these patents and copyrighted items is not materially limited by any agreement or known infringing use.

You must tell us immediately if you learn about an infringement or challenge to our use of these patents or copyrights. Belmont will take the action that Belmont thinks appropriate. You must also agree not to contest Belmont's interest in these or our other trade secrets.

If Belmont decides to add, modify or discontinue the use of an item or process covered by a patent or copyright, you must also do so. Belmont's sole obligation is to reimburse you for the tangible cost of complying with its obligation.

Although Belmont is not obligated to defend your use of these items or processes, Belmont will reimburse you for damages and reasonable costs incurred in litigation about them.

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Item 15

OBLIGATION TO PARTICIPATE IN THE ACTUAL OPERATION OF THE FRANCHISE BUSINESS
DISCLOSE THE FRANCHISEE'S OBLIGATION TO PARTICIPATE PERSONALLY IN THE DIRECT OPERATION OF THE FRANCHISE BUSINESS AND WHETHER THE FRANCHISOR RECOMMENDS PARTICIPATION.

Item 15 Instructions:

- i. Include obligations arising from written agreement (including personal guaranty, confidentiality agreement or noncompetition agreement) or from the franchisor's practice.
- ii. If personal "on premises" supervision is not required:
 - a. If the franchisee is an individual, state whether the franchisor recommends "on premises" supervision by the franchisee;
 - b. State limitations on whom the franchisee can hire as an on premises supervisor;
 - c. Whether this "on premises" supervisor must successfully complete the franchisor's training program; and
 - d. If the franchisee is a business entity, state the amount of equity interest that the "on premises" supervisor must have in the franchise.
- iii. Disclose the restrictions which the franchisee must place on its manager (for example, maintain trade secrets, non-competition).
- iv. The franchisor may reference Items 14 and 17 in its answer.

Sample Answer 15-1

If you are an individual, you must directly supervise the franchised business on its premises. If you are a corporation, the direct, on-site supervision must be done by a person who owns at least 1/3 of the corporate equity.

Sample Answer 15-2

Belmont does not require that you personally supervise the franchised business. The business must be directly supervised "on premises" by a manager who has successfully completed Belmont's training program. The on premises manager cannot have an interest or business relationship with any of Belmont's business

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competitors. The manager need not have an ownership interest in a corporate or partnership franchisee. The manager must sign a written agreement to maintain confidentiality of the trade secrets described in Item 14 and to conform with the covenants not to compete described in Item 17.

Each individual who owns a 5% or greater interest in the franchisee entity must sign an agreement (Exhibit) assuming and agreeing to discharge all obligations of the "franchisee" under the Franchise Agreement.

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Item 16

RESTRICTIONS ON
WHAT THE FRANCHISEE MAY SELL

DISCLOSE RESTRICTIONS OR CONDITIONS IMPOSED BY THE FRANCHISOR ON THE GOODS OR SERVICES THAT THE FRANCHISEE MAY SELL OR THAT LIMIT THE CUSTOMERS TO WHOM THE FRANCHISEE MAY SELL GOODS OR SERVICES.

Item 16 Instructions:

- i. Describe the franchisee's obligation to sell only goods and services approved by the franchisor.
- ii. Disclose any franchise obligation to sell all goods and services authorized by the franchisor. Disclose whether the franchisor has the right to change the types of authorized goods and service and whether there are limits on the franchisor's right to make changes.
- iii. If the franchisee is restricted regarding customers, disclose the restrictions.
- iv. The applicant may cross reference disclosures made in Items 8, 9, and 12.
- v. Use Sample Answer 16-1 for a negative response.

Sample Answer 16-1

Belmont does not restrict the type of goods or services that you may offer.

Sample Answer 16-2

Belmont requires you to offer and sell only those goods and services that Belmont has approved (see Item 9).

You must offer all goods and services that Belmont designates as required for all franchisees. These required services are muffler inspection, repair and replacement. Parts, supplies, and equipment used in your Belmont Muffler business must be approved by Belmont (see Item 8).

Belmont has the right to add additional authorized services that the franchisee is required to offer. There are no limits on Belmont's right to do so except

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that the investment required of a franchisee (for equipment, supplies and initial inventory) will not exceed \$5,000 per year.

Belmont also designates some services as optional for qualified franchisees. Current optional services are brake inspection, repair and replacement, tire rotation, wheel balancing, and alignment and rustproofing. To offer optional goods or services, you must be in substantial compliance with all material obligations under your Franchise Agreement. In addition, Belmont may require you to comply with other requirements (such as training, marketing, insurance) before Belmont will allow you to offer certain optional services.

As long as you meet your annual agreed sales quotas (see Item 12), Belmont will not restrict you from soliciting any customers, no matter who they are or where they are located. If you do not meet your annual sales quotas, Belmont may deny you the right to receive any further fleet business referrals from Belmont and may either keep the fleet business referrals for itself or give them to another franchisee. Failure to meet your annual sales quota is a default under your Franchise Agreement and grounds for termination of your franchise (see Item 17).

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Item 17

RENEWAL, TERMINATION, TRANSFER
AND DISPUTE RESOLUTIONSUMMARIZE THE PROVISIONS OF THE FRANCHISE AND OTHER AGREEMENTS DEALING WITH
TERMINATION, RENEWAL, TRANSFER, DISPUTE RESOLUTION AND OTHER IMPORTANT ASPECTS
OF THE FRANCHISE RELATIONSHIP.

Item 17 Instructions:

i. Begin Item 17 disclosure with the following statement:

This table lists certain important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

ii. Respond in tabular form. Refer to the section of the agreement which covers each subject.

iii. Use a separate table for any other significant franchise-related agreement. If a provision in any other agreement affects the provisions of the franchise or franchise-related agreements disclosed in this item (for example, the term of the franchise will be equal to the term of the lease), disclose that provision in the applicable category in the table.

iv. The table should contain a "summary" column to summarize briefly the disclosed provision. The summary is intended to provide a concise overview of the provision in no more than a few words or a sentence. Do not specify in detail all matters covered by a provision.

v. The table should respond to each category listed below. Do not change the names of the categories. List all contractual provisions relevant to each category in the table. If the response to any category is that the agreement does not contain the relevant provision, the table should so state. If the agreement is silent concerning a category but the franchisor unilaterally offers to provide certain benefits or protections to franchisees as a matter of policy, a footnote should describe this policy and state whether the policy is subject to change. The categories are:

- a. Length of the term of the franchise
- b. Renewal or extension of the term
- c. Requirements for franchisee to renew or extend
- d. Termination by franchisee
- e. Termination by franchisor without cause
- f. Termination by franchisor with "cause"

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g. "Cause" defined - curable defaults

h. "Cause" defined - defaults which cannot be cured

i. Franchisee's obligations on termination/non-renewal

j. Assignment of contract by franchisor

k. "Transfer" by franchisee - denied

l. Franchisor approval of transfer by franchisee

m. Conditions for franchisor approval of transfer

n. Franchisor's right of first refusal to acquire franchisee's business

o. Franchisor's option to purchase franchisee's business

p. Death or disability of franchisee

q. Non-competition covenants during the term of the franchise

r. Non-competition covenants after the franchise is terminated or expires

s. Modification of the agreement

t. Integration/merger clause

u. Dispute resolution by arbitration or mediation

v. Choice of forum

w. Choice of law

Sample Answer 17

This table lists important provisions of the franchise and related agreements. You should read these provisions in the agreements attached to this offering circular.

Section in Franchise Agreement	Provision	Summary
Section 1 (also Section 1 of Lease, Exhibit F)	a. Term of the franchise of the term	Term is equal to lease term - 10 years
Section 20	b. Renewal or extension	If you are in good standing you can add additional term equal to renewal term of lease (10 years max.)
Section 20	c. Requirements for you to renew or extend	Sign new agreement, pay fee, remodel and sign release

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w. Choice of law

Section 28

(state) law applies

Note:

(1) Franchisor is not obligated by the Agreement to do so, but, if the franchise is terminated, franchisor's policy is to buy back inventory at fair market value. This policy is subject to change at any time.

These states have statutes which may supersede the franchise agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise: ARKANSAS (Stat. Section 70-807), CALIFORNIA (Bus. & Prof. Code Sections 20000-20043), CONNECTICUT (Gen. Stat. Section 42-133e et seq.), DELAWARE (Code, Tit.), HAWAII (Rev. Stat. Section 482E-1), ILLINOIS [915 Compiled Stat., 705/19 and 20], INDIANA (Stat. Section 23-2-2.7), IOWA (Code Sections 523H.1-523H.17), MICHIGAN (Stat. Section 19.854(27)), MINNESOTA (Stat. Section 80C.14), MISSISSIPPI (Code Section 75-24-51), MISSOURI (Stat. Section 407.400), NEBRASKA (Rev. Stat. Section 87-401), NEW JERSEY (Stat. Section 56:10-1), SOUTH DAKOTA (Codified Laws Section 37-58-51), VIRGINIA (Code 13.1-557-574-13.1-564), WASHINGTON (Code Section 19.100.180), WISCONSIN (Stat. Section 135.03). These and other states may have court decisions which may supersede the Franchise Agreement in your relationship with the franchisor including the areas of termination and renewal of your franchise.

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Item 18

PUBLIC FIGURES

DISCLOSE THE FOLLOWING:

A. COMPENSATION OR OTHER BENEFIT GIVEN OR PROMISED TO A PUBLIC FIGURE ARISING FROM:

- (1) The use of the public figure in the franchise name or symbol or
- (2) The endorsement or recommendation of the franchise to prospective franchisees.

B. THE EXTENT TO WHICH THE PUBLIC FIGURE IS INVOLVED IN THE ACTUAL MANAGEMENT OR CONTROL OF THE FRANCHISOR.

C. THE TOTAL INVESTMENT OF THE PUBLIC FIGURE IN THE FRANCHISOR.

Item 18 Instructions:

- i. A "public figure" is a person whose name or physical appearance is generally known to the public in the geographic area where the franchise will be located.
- ii. Disclose the compensation paid or promised for the endorsement or use of the name of the public figure.
- iii. Describe the public figure's position and duties in the franchisor's business structure.
- iv. State the amount of the public figure's investment. Describe the extent of the amount contributed in services performed or to be performed. State the type of investment (for example, common stock, promissory note).
- v. Use Sample Answer 18-1 for a negative response.

Sample Answer 18-1

Belmont does not use any public figure to promote its franchise.

Sample Answer 18-2

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Belmont has paid Ralph Doister \$50,000 for the use of his name in promoting the sale of our franchise. The right expires December 31, 1992. Belmont has produced newspaper ads, a brochure and a video which feature Mr. Doister. Mr. Doister does not manage or own an interest in Belmont.

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Item 19

EARNINGS CLAIMS

A. AN EARNINGS CLAIM MADE IN CONNECTION WITH AN OFFER OF A FRANCHISE MUST BE INCLUDED IN FULL IN THE OFFERING CIRCULAR AND MUST HAVE A REASONABLE BASIS AT THE TIME IT IS MADE. IF NO EARNINGS CLAIM IS MADE, ITEM 19 OF THE OFFERING CIRCULAR MUST CONTAIN THE NEGATIVE DISCLOSURE PRESCRIBED IN THE INSTRUCTION.

Item 19 Instructions:

- i. Definition: "Earnings claim" means information given to a prospective franchisee by, on behalf of or at the direction of the franchisor or its agent, from which a specific level or range of actual or potential sales, costs, income or profit from franchised or non-franchised units may be easily ascertained.

A chart, table or mathematical calculation presented to demonstrate possible results based upon a combination of variables (such as multiples of price and quantity to reflect gross sales) is an earnings claim subject to this item.

An earnings claim limited solely to the actual operating results of a specific unit being offered for sale need not comply with this item if it is given only to potential purchasers of that unit and is accompanied by the name and last known address of each owner of the unit during the prior three years.

- ii. Supplemental earnings claim: If a franchisor has made an earnings claim in accordance with this Item 19, the franchisor may deliver to a prospective franchisee a supplemental earnings claim directed to a particular location or circumstance, apart from the offering circular. The supplemental earnings claim must be in writing, explain the departure from the earnings claim in the offering circular, be prepared in accordance with this Item 19, and be left with the prospective franchisee.

- iii. Scope of requirement: An earnings claim is not required in connection with the offer of franchisees; if made, however, its presentation must conform with this Item 19. If an earnings claim is not made, then negative disclosure 19 (below) must be used.

- iv. Claims regarding future performance: A statement or prediction of future performance that is prepared as a forecast or projection in accordance with the statement on standards for accountants' services on prospective financial information (or its successor) issued by the American Institute of Certified Public Accountants, Inc., is presumed to have a reasonable basis.

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- v. Burden of proof: The burden is upon the franchisor to show that it had a reasonable basis for its earnings claim.

[NEGATIVE DISCLOSURE 19]

REPRESENTATIONS REGARDING EARNINGS CAPABILITY

Belmont does not furnish or authorize its salespersons to furnish any oral or written information concerning the actual or potential sales, costs, income or profits of [a Belmont muffler shop]. Actual results vary from unit to unit and Belmont cannot estimate the results of any particular franchisee.

B. AN EARNINGS CLAIM SHALL INCLUDE A DESCRIPTION OF ITS FACTUAL BASIS AND THE MATERIAL ASSUMPTIONS UNDERLYING ITS PREPARATION AND PRESENTATION.

Item 19B Instructions:

- i. Factual Basis: The factual basis of an earnings claim includes significant matters upon which a franchisee's future results are expected to depend. This includes, for example, economic or market conditions which are basic to a franchisee's operation and encompass matters affecting, among other things, franchisee's sales, the cost of goods or services sold and operating expenses.

In the absence of an adequate operating experience of its own, a franchisor may base an earnings claim upon the results of operations of a substantially similar business of a person affiliated with the franchisor or franchisees of that person; provided that disclosure is made of any material differences in the economic or market conditions known to, or reasonably ascertainable by, the franchisor.

- ii. Basic Disclosures: The earnings claim must state:

- a. Material assumptions, other than matters of common knowledge, underlying the claim (see Definition iii under item 3 for the definition of "material");
- b. A concise summary of the basis for the claim including a statement of whether the claim is based upon actual experience of franchised units and, if so, the percentage of franchised outlets in operation for the period covered by the earnings claim that have actually attained or surpassed the stated results;
- c. A conspicuous admonition that a new franchisee's individual financial results are likely to differ from the result stated in the earnings claim; and

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- d. A statement that substantiation of the data used in preparing the earnings claim will be made available to the prospective franchisee on reasonable request.

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Item 20

LIST OF OUTLETS

A. THE NUMBER OF FRANCHISES OF A TYPE SUBSTANTIALLY SIMILAR TO THOSE OFFERED AND THE NUMBER OF FRANCHISOR OWNED OR OPERATED OUTLETS AS OF THE CLOSE OF EACH OF THE FRANCHISOR'S LAST 3 FISCAL YEARS. SEGREGATE FRANCHISES THAT ARE OPERATIONAL FROM FRANCHISES NOT YET OPERATIONAL. SEGREGATE DISCLOSURE BY STATE, TOTAL EACH CATEGORY.

B. THE NAMES OF ALL FRANCHISES AND THE ADDRESSES AND TELEPHONE NUMBERS OF ALL OF THEIR OUTLETS. THE FRANCHISOR MAY LIMIT ITS DISCLOSURE TO ALL FRANCHISES OF OUTLETS IN THE STATE, BUT IF THESE FRANCHISE OUTLETS TOTAL FEWER THAN 100, DISCLOSE FRANCHISE OUTLETS FROM ALL CONTIGUOUS STATES AND THEN THE NEXT CLOSEST STATE(S) UNTIL AT LEAST 100 FRANCHISE OUTLETS ARE LISTED.

C. THE ESTIMATED NUMBER OF FRANCHISES TO BE SOLD DURING THE 1 YEAR PERIOD AFTER THE CLOSE OF THE FRANCHISOR'S MOST RECENT FISCAL YEAR.

D. THE NUMBER OF FRANCHISE OUTLETS IN THE FOLLOWING CATEGORIES THAT, FOR THE 3-YEAR PERIOD IMMEDIATELY BEFORE THE CLOSE OF FRANCHISOR'S MOST RECENT FISCAL YEAR, HAVE:

- (1) Transferred controlling ownership;
- (2) Been cancelled or terminated by the franchisor;
- (3) Not been renewed by the franchisor;
- (4) Been reacquired by the franchisor; or
- (5) Been reasonably known by the franchisor to have otherwise ceased to do business in the system.

E. THE NAME AND LAST KNOWN HOME ADDRESS AND TELEPHONE NUMBER OF EVERY FRANCHISEE WHO HAS HAD AN OUTLET TERMINATED, CANCELLED, NOT RENEWED, OR OTHERWISE VOLUNTARILY OR INVOLUNTARILY CEASED TO DO BUSINESS UNDER THE FRANCHISE AGREEMENT DURING THE MOST RECENTLY COMPLETED FISCAL YEAR OR WHO HAS NOT COMMUNICATED WITH THE FRANCHISOR WITHIN 10 WEEKS OF THE APPLICATION DATE.

Item 20 Instructions:

- i. Do not include a transfer when beneficial ownership of the franchise does not change.
- ii. List an outlet that is reacquired by the franchisor in that column whether or not it also fits another category.

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iii. Other than the franchise names, addresses, and telephone numbers, disclose Item 20 information in tabular form. Use footnotes or a "remarks" column to elaborate on information in the table or to disclose caveats. Disclose the number of franchised and franchisor owned outlets sold, opened and closed. Disclose the total number of franchised and franchisor owned outlets open at the end of each year. Disclose information for each of the last 3 fiscal years.

iv. If an outlet has been operated by more than one franchisee, disclose each transfer in the transfer column.

v. Disclose information about franchisor owned outlets that are substantially similar to the franchised outlets. In this Item "franchisor owned" outlets include outlets owned by the franchisor and by its affiliates. Use a separate table with a format similar to the format for franchised outlets. The same table may be used if the franchisor owned outlets are separated from franchised outlets.

vi. For franchisees operating within the system disclose franchisee business addresses and telephone numbers. List outlets owned by the persons listed in Item 2 and their immediate families or by business entities owned by them as franchisor owned outlets. These outlets can be identified in the table by an asterisk.

vii. Separate information by state. List all states for which franchisor has information responsive to this Item.

viii. When the requirement states "most recent fiscal year," the franchisor may use a more recent date if it discloses that date and uses that date for all disclosures in this Item.

ix. When the requirement states "most recent fiscal year," the state may require a more recent date.

FRANCHISED STORE STATUS SUMMARY FOR YEARS 1992/1991/1990

State	Transfers	Cancelled or Terminated	Not Renewed	Reacquired by Franchisor	Left the System Other	Total from left columns (2)	Franchisees operating at year end
Alaska						20/0	
Arizona	2/1/0					2/1/0	86/2
Arkansas							64/2
California					1/1/0	1/1/0	40/0
Colorado							39/3
Connecticut							5/1/1

Sample Answer 20

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Note: Belmont no longer operates company owned stores.

Delaware	1/0/0				1/0/0	6/4/0
Florida						2/0/0
Georgia						2/0/0
Idaho						2/0/0
Totals	2/1/0	1/0/0	0/0/0	0/0/0	1/1/0	40/20/8

PROJECTED
COMPANY OWNED
OPENINGS IN
NEXT FISCAL YEAR

PROJECTED
FRANCHISED
NEW STORES
IN THE NEXT
FISCAL YEAR

FRANCHISE
AGREEMENT
SIGNED BUT
STORE NOT
OPEN (1)

STATE

1

Alaska
Arizona

Arkansas
California

Colorado

Connecticut

Delaware
Florida

Georgia

Idaho

Totals

3

0

Note:

(1) As of December 31, 1992

Notes:

(1) All numbers are as of December 31 for each year.

(2) The numbers in the "Total" column may exceed the number of stores affected because several events may have affected the same store. For example, the same store may have had multiple owners.

STATUS OF COMPANY OWNED STORES
FOR YEARS 1992/1991/1990

STORES CLOSED
DURING YEAR

STORES OPENED
DURING YEAR

TOTAL STORES
OPERATING AT YEAR END

Alaska
Arizona

Arkansas
California

Colorado

Connecticut

Delaware
Florida

Georgia

Idaho

Totals

0/0/0

0/0/0

0/0/0

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Item 21

FINANCIAL STATEMENTS

PREPARE FINANCIAL STATEMENTS IN ACCORDANCE WITH GENERALLY ACCEPTED ACCOUNTING PRINCIPLES. THESE FINANCIAL STATEMENTS MUST BE AUDITED BY AN INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT. UNAUDITED STATEMENTS MAY BE USED FOR INTERIM PERIODS. INCLUDE THE FOLLOWING FINANCIAL STATEMENTS:

A. THE FRANCHISOR'S BALANCE SHEETS FOR THE LAST TWO FISCAL YEAR ENDS BEFORE THE APPLICATION DATE. IN ADDITION, INCLUDE STATEMENTS OF OPERATIONS, OF STOCKHOLDERS' EQUITY AND OF CASH FLOWS FOR EACH OF THE FRANCHISOR'S LAST THREE FISCAL YEARS. IF THE MOST RECENT BALANCE SHEET AND STATEMENT OF OPERATIONS ARE AS OF A DATE MORE THAN 90 DAYS BEFORE THE APPLICATION DATE, THEN ALSO SUBMIT AN UNAUDITED BALANCE SHEET AND STATEMENT OF OPERATIONS AS OF A DATE WITHIN 90 DAYS OF THE APPLICATION DATE.

B. AFFILIATED COMPANY STATEMENTS. INSTEAD OF THE DISCLOSURE REQUIRED BY ITEM 21A, THE FRANCHISOR MAY INCLUDE FINANCIAL STATEMENTS OF ITS AFFILIATED COMPANY IF THE AFFILIATED COMPANY'S FINANCIAL STATEMENTS SATISFY ITEM 21A AND THE AFFILIATED COMPANY ABSOLUTELY AND UNCONDITIONALLY GUARANTEES TO ASSUME THE DUTIES AND OBLIGATIONS OF THE FRANCHISOR UNDER THE FRANCHISE AGREEMENT.

C. CONSOLIDATED AND SEPARATE STATEMENTS:

(1) When a franchisor owns a direct or beneficial, controlling financial interest in another corporation, its financial statements should reflect the financial condition of the franchisor and its subsidiaries.

(2) If the applicant is a subfranchisor include separate financial statements for the franchisor and subfranchisor related entity.

(3) Prepare consolidated and separate financial statements in accordance with generally accepted accounting principles.

Item 21 Instructions:

i. States may require financial statements additional to those listed in this Item.

ii. A company controlling 80% or more of a franchisor may be required to include its financial statements.

iii. Present required financials in a format of columns which compare at least 2 fiscal years.

iv. In Item 21A, the required financial statements for a franchisor with a

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calendar fiscal year end and a July 15, 1989 application filing date are:

- a. Unaudited balance sheet as of either April 30, May 31 or June 30, 1989 with an unaudited income statement for the period from January 1, 1989 to the date of the balance sheet;
- b. Balance sheets, statements of operations, of stockholders equity and of cash flow. The balance sheets should be audited and as of December 31, 1987 and 1988. The remaining statements should be audited and should be for periods ending December 31, 1986, 1987 and 1988; and
- c. If the franchisor has never had an audit, it need not supply the financial statement required by (b) if it supplies either an audit as of its last fiscal year end or the statements required by (a) in an audited form.

v. In the Item 21B response, the affiliate's guarantee need cover only the franchisor's obligations to the franchisee. The guarantee need not extend to third parties. A sample guarantee is on page in Exhibit .

vi. In the Item 21B response the filing state may permit a surety bond instead of the parent company's guarantee.

vii. Disclose the existence of a guarantee.

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Item 23

RECEIPT

THE LAST PAGE OF THE OFFERING CIRCULAR IS A DETACHABLE DOCUMENT ACKNOWLEDGING RECEIPT OF THE OFFERING CIRCULAR BY THE PROSPECTIVE FRANCHISEES. IT MUST CONTAIN THE FOLLOWING STATEMENT IN BOLDFACE TYPE:

THIS OFFERING CIRCULAR SUMMARIZES CERTAIN PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF OFFERS YOU A FRANCHISE, MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) The first personal meeting to discuss our franchise; or
- (2) Ten business days before the signing of a binding agreement; or
- (3) Ten business days before a payment to .

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN A FRANCHISE AGREEMENT.

IF DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND THE ILLINOIS ATTORNEY GENERAL OFFICE, 500 SOUTH SECOND STREET, SPRINGFIELD, ILLINOIS 62706. (Any additional state disclosure time or required statutory language.)

Item 23 Instructions:

- i. Place the name of the franchisor in the blank.
- ii. Make two copies of the Receipt: one for retention by the franchisee and one by the franchisor.
- iii. Disclose the name, principal business address and telephone number of the franchisor or franchise broker offering the franchise in this State.
- iv. List the title of all attached exhibits.
- v. Effective Date: (Leave blank until notified of effectiveness by State regulatory authority.).
- vi. The name and address of the franchisor's registered agent authorized

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Item 22

CONTRACTS

ATTACH A COPY OF ALL AGREEMENTS PROPOSED FOR USE OR IN USE IN THIS STATE REGARDING THE OFFERING OF A FRANCHISE, INCLUDING THE FRANCHISE AGREEMENT, LEASES, OPTIONS AND PURCHASE AGREEMENTS.

Item 22 Instructions:

- i. Copies of agreements attached to the offering circular under Item 22 are part of the offering circular. Each offering circular delivered to a prospective franchisee must include copies of all agreements to be offered.
- ii. The franchisor may cross reference Item 10 for financing agreements.

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to receive service of process if not disclosed in Item 1.

Sample Answer 23

RECEIPT

THIS OFFERING CIRCULAR SUMMARIZES PROVISIONS OF THE FRANCHISE AGREEMENT AND OTHER INFORMATION IN PLAIN LANGUAGE. READ THIS OFFERING CIRCULAR AND ALL AGREEMENTS CAREFULLY.

IF BELMONT OFFERS YOU A FRANCHISE, BELMONT MUST PROVIDE THIS OFFERING CIRCULAR TO YOU BY THE EARLIEST OF:

- (1) THE FIRST PERSONAL MEETING TO DISCUSS OUR FRANCHISE; OR
- (2) TEN BUSINESS DAYS BEFORE SIGNING OF A BINDING AGREEMENT; OR
- (3) TEN BUSINESS DAYS BEFORE ANY PAYMENT TO BELMONT.

YOU MUST ALSO RECEIVE A FRANCHISE AGREEMENT CONTAINING ALL MATERIAL TERMS AT LEAST FIVE BUSINESS DAYS BEFORE YOU SIGN ANY FRANCHISE AGREEMENT.

IF BELMONT DOES NOT DELIVER THIS OFFERING CIRCULAR ON TIME OR IF IT CONTAINS A FALSE OR MISLEADING STATEMENT, OR A MATERIAL OMISSION, A VIOLATION OF FEDERAL AND STATE LAW MAY HAVE OCCURRED AND SHOULD BE REPORTED TO THE FEDERAL TRADE COMMISSION, WASHINGTON, D.C. 20580 AND (STATE AGENCY).

Belmont authorizes Legal Process Corp at 448 West Washington Avenue, City, State to receive service of process for Belmont. I have received a Uniform Franchise Offering Circular dated . This offering circular included the following Exhibits:

- A. License Agreement
- B. Equipment Lease
- C. Lease for Premises
- D. Loan Agreement

Date Franchisee

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(Source: Amended at 23 Ill. Reg. , effective)

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Section 200. ILLUSTRATION M Joint Venture Agreement & Acknowledgment

STATE OF _____)

COUNTY OF _____) SS

On this _____ day of _____, 19____, before me the undersigned officer, personally appeared _____ and _____ to me known personally to be the authorized representative(s) of _____, a joint venture undertaking, whose name(s) is signed to the foregoing instrument, and that he (they), as such representative(s), being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the joint venture by himself (themselves) as such authorized representative(s).

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

(Notarial Seal)

My Commission expires: _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION N Limited Partnership Acknowledgment

STATE OF _____)

COUNTY OF _____) SS

On this _____ day of _____, 19____, before me the undersigned officer, personally appeared _____ and _____ to me known personally to be the authorized representative(s) of _____, a limited partnership, whose name(s) is signed to the foregoing instrument, and that he (they), as such representative(s), being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the limited partnership by himself (themselves) as such authorized representative(s).

IN WITNESS WHEREOF I have hereunto set my hand and official seal.

Notary Public

(Notarial Seal)

My Commission expires: _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX B Franchise Broker Registration Forms

Section 200.ILLUSTRATION B Broker Authorization

To Whom It May Concern:

{Broker's-name} ("Broker") is hereby authorized to act as Franchise Broker and sell franchisees on behalf of our company.

(Check one of the Following)

A. {Broker's-name} shall not accept payment from any Illinois franchisee in its own name, but shall only accept checks payable to our company and shall forward said checks and applications to us within _____ days after receipt of same.

B. {Broker's-name} shall accept payment from franchisees in its own name.

C. Broker is not authorized to accept cash, checks or other payments from prospective franchisees on behalf of our company.

By: _____ Title: _____
(Source: Amended at 23 Ill. Reg. _____, effective _____)

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NOTICE OF PROPOSED AMENDMENTS

Section 200.ILLUSTRATION C Franchise Broker Surety Bond

We, _____ (broker name), a corporation, with principal offices at _____ (broker address), as principal, and _____ (name of Surety), with principal offices at _____ (Surety address), a Surety Company incorporated under the laws of the State of _____ (identify state) and authorized to conduct business in the State of Illinois as Surety, are bound to the Illinois Attorney General, Obligor in the sum of _____ to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Illinois Attorney General for registration as a franchise broker under the Illinois Franchise Disclosure Act (815 ILCS 705) and is required pursuant to the Rules and Regulations promulgated under the Illinois Franchise Disclosure Act to post bond in the amount of _____.

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise upon sale of the aforementioned franchise(s) to said purchaser(s).

THEREFORE, the condition of this obligation is that the principal:

1. Comply with the Illinois Franchise Disclosure Act and Regulations promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the Broker's violation of said Illinois Franchise Disclosure Act or any Rules or Regulations promulgated thereunder or any acts, rules, regulations, or orders amendatory thereof, and/or supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made, in the light of the circumstances under which such statement was made, not misleading.

This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full years after the date of execution shown below.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the County in which the offer or sale of the franchise occurred.

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at _____ this _____ day of _____, 19_____.

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Principal

Surety _____
(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION D Broker Guaranty of Performance

For value received _____ (name of guarantor), located at _____ (address), absolutely and unconditionally guarantees the performance by broker, _____ (name of broker), of all obligations under the Illinois Franchise Disclosure Act and Rules, incurred in the sale of franchises in the State of _____, and any underlying contractual responsibilities resulting from the sale of franchises occurring after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of broker shall have been satisfied or until such liability of broker to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against broker remains outstanding. Notice of acceptance is waived. Notice of default on the part of broker is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guarantee at _____, this _____ day of _____, 19____.

ATTEST

GuarantorBy: _____
Title: _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX C Escrow Forms

Section 200.ILLUSTRATION A Escrow Agreement

Agreement, made this _____ day of _____, 19____, by (name of franchisor) a (type of business entity) organized under the laws of the State of _____ (hereinafter referred to as "Franchisor"), and _____ (hereinafter referred to as "BANK", as escrowee for the franchisees of Franchisor; WHEREAS, Franchisor is desirous of establishing franchisees in the State of Illinois; and

WHEREAS, it is in the discretion of the Illinois Attorney General as administrator of the Illinois Franchise Disclosure Act, to require an escrow of the franchise fees; and

WHEREAS, in order to conform to the procedures for arranging an escrow account, Franchisor desires to enter into an escrow agreement with BANK, pursuant to which initial franchise fees are to be held in escrow until Franchisor has met its initial obligations to its franchisees.

NOW THEREFORE, with the foregoing recitals hereinafter incorporated by reference and made a part hereof, it is agreed as follows:

1. Franchisor shall deposit with BANK initial franchise fees received from franchisees that are required to be escrowed under the order of the Administrator, but BANK shall not be responsible for insuring that any part or all moneys received by Franchisor from each or any one franchisee are deposited with BANK.

2. Franchisor will supply BANK with the name and address of each franchisee, together with the amount of the deposit which represents moneys paid by each franchisee and BANK will maintain records containing the same information.

3. All moneys received by BANK from Franchisor shall be held by BANK as escrowee for the exclusive purpose herein described and will be placed in a single segregated account designated substantially as follows:

(Name of Bank) _____, AS ESCROE FOR FRANCHISEES OF (Name of Franchisor) (hereinafter referred to as "Escrow Account.")

4. BANK shall accept such funds as Franchisor shall deliver to BANK, as escrowee, and BANK shall acknowledge the receipt of funds from Franchisor; however, BANK shall not be responsible for the accuracy of the information provided to it by Franchisor.

5. Any funds deposited hereunder in the Escrow Account shall be invested and kept invested by BANK, at the option of the Franchisor, in instruments of its choosing, until they are to be disbursed as provided in paragraph 6 hereof. All interest received and any increment thereon shall be added to the funds so deposited in the Escrow Account and shall be distributed as provided in paragraph 6.

6. BANK shall pay out funds, plus interest, if any, from the Escrow Account upon the occurrence of one of the following conditions:

(a) Upon receipt of a letter from an officer of Franchisor directing BANK to pay out such funds to Franchisor, accompanied by a

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written notice from the Administrator stating that he takes no exception (hereinafter referred to as "No Exception Notice") to the release, BANK shall pay part or all of the moneys held in escrow for the benefit of a specified franchisee, plus interest, if any, to Franchisor.

(b) Upon written notice from the Administrator BANK shall return part or all of the deposited franchise fee and other funds, plus interest, if any, to a specified franchisee.

(c) BANK shall pay funds into court of disburse or deliver them in accordance with any final order of any court of competent jurisdiction.

BANK shall not be personally liable for any act taken or omitted by it in good faith and in the exercise of its own best judgment. BANK shall also be fully protected in relying upon any written notice, demand, certificate or document which it in good faith believes to be genuine.

7. BANK is authorized, in its sole discretion, to disregard any and all notices or instructions given by any of the undersigned or by any other person, firm or corporation, except only such notices or instructions of any Administrator as are hereinafter provided for and orders of process of any court entered or issued with or without jurisdiction. If any property subject hereto is at any time attached, garnished, or levied upon under any court order or in case the payment, assignment, transfer, conveyance or delivery of any such property shall be stayed or enjoined by any court order, or in case of any court order affecting such property or any part thereof, then and in any of such events BANK is authorized, in its sole discretion, to rely upon and comply with any such order, writ, judgment or decree which it is advised by legal counsel of its own choosing is binding upon it; if it complies with any such order, writ, judgment or decree, it shall not be liable to any of the parties hereto or to any other person, firm or corporation by reason of such compliance even though such order, writ, judgment or decree may be subsequently reversed, modified, annulled, set aside or vacated.

8. Written consent of BANK to act in the capacity of escrowee shall be manifested upon the duly authorized execution of this Agreement. The Administrator may, at any time, inspect the records of BANK, insofar as they relate to this Escrow Agreement. At the Administrator's discretion, statements indicating status of the escrow shall be furnished by BANK to the Administrator. An executed duplicate original of this Agreement shall be filed with the Administrator at Illinois Attorney General, Franchise Division, 500 South Second Street, Springfield, Illinois 62706.

9. BANK shall be paid by Franchisor for any expenses incurred by it and reasonable compensation for its services hereunder. Funds held by BANK pursuant to this Agreement shall not be subject to any liens or charges by BANK.

10. If BANK believes it to be reasonably necessary to consult with counsel concerning any of its duties in connection with this Agreement, or in the event BANK retains counsel upon becoming involved in litigation on account of any deposit or of BANK's Agreement, Franchisor shall reimburse BANK for and indemnify and hold BANK harmless against any and all costs, attorney's fees, charges,

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disbursements and expenses in connection with such consultation or litigation.
11. Franchisor unconditionally guarantees that, in the event BANK misapplies, dissipates, converts or is otherwise responsible for a deficiency in the funds deposited in the Escrow Account through the exercise of less than a fiduciary standard of care, Franchisor shall reimburse each and every franchisee to the extent of such deficiency if such amounts deposited are required to be returned to such franchisee under paragraph 6(a) through (c) hereof.

12. Franchisor shall give each franchisee a copy of this Agreement prior to collecting any moneys from such franchisee.

13. BANK's duties as escrowee shall terminate upon final distribution of all moneys received under this Agreement.

IN WITNESS WHEREOF, this Agreement has been duly executed, the parties intending to be legally bound hereby.

ATTEST:
BANK

Its Secretary _____
By: _____
Its _____

FRANCHISOR

By: _____
Its _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION B Franchisor's Petition for Release of Escrowed Funds
_____) SS
_____) SS
_____)

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR OF THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release from escrow the sum of \$ _____, plus accrued interest representing the franchise fee paid by _____ January--17--1996 on the _____ day of _____, 19____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

Franchisor

By: _____
Name and Title

Printed Name of Franchisee

Address of Franchisee

Subscribed and sworn to before me
this _____ day of _____, 19____.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200.APPENDIX D Guaranty Forms

Section 200-ILLUSTRATION A Guaranty of Performance

For value received, (name of guarantor), located at (address), absolutely and unconditionally guarantees the performance by franchisee, (name of franchisor), of all obligations under the Illinois Franchise Disclosure Act and Rules, and of all of the obligations of franchisor to furnish goods and/or services necessary to establish and open the business of franchisees to whom franchises are granted by franchisor pursuant to the registration of such franchises in the State of _____ and the terms and conditions of its franchise and other agreements entered into after this date with franchisees under the jurisdiction of the Illinois Franchise Disclosure Act, as the same have been or may hereafter be amended, modified, renewed or extended from time to time. This guaranty shall continue in force until all such obligations of franchisor shall have been satisfied or until such liability of franchisor to such franchisees has been completely discharged, whichever first occurs. Guarantor shall not be discharged from liability hereunder as long as any such claim by a franchisee against franchisor remains outstanding. Notice of acceptance is waived. Notice of default on the part of franchisor is not waived. This guaranty shall be binding upon guarantor, its successors and assigns.

In witness whereof, guarantor has, by a duly authorized officer, executed this guarantee at _____, this _____ day of _____, 19____.

ATTEST:

Guarantor _____
By _____
Title _____
(Source: Amended at 23 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

Section 200-ILLUSTRATION C Franchisee's Petition For Release of Escrowed Funds

_____) SS
_____) _____

IN THE MATTER OF:
FRANCHISOR:
FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisee hereby requests the Administrator to authorize release from escrow the sum of \$_____, plus accrued interest representing the franchise fee paid by me on the _____ day of _____, 19____.

The undersigned franchisee hereby represents that the franchisor has not fulfilled the initial obligations owed to me under the franchise and other agreements and that I have not commenced doing business.

Franchisee Signature _____
Printed Name of Franchisee _____
Address of Franchisee _____

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public _____
(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. ILLUSTRATION C Secretary's Certificate

The undersigned hereby certifies that the undersigned is the Secretary of (name of guarantor) a corporation organized and existing under the laws of the State of _____, that the foregoing is a true and correct copy of the resolution duly adopted at a meeting of the Board of Directors of said corporation held on the _____ day of _____, 19____, at which meeting a quorum was at all times present and acting; that the passage of said resolution was in all respects legal; and that said resolution is in full force and effect.

Dated this _____ day of _____, 19____.

Secretary

(Corporate Seal)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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Section 200. APPENDIX E Surety Bond

We, (name of franchisor) _____, a corporation with principal offices at (address of franchisor) _____ as principal, and (name of surety company) _____ a surety company with principal offices located at _____ (address of surety) _____ incorporated under the laws of the State of _____ (address of franchisor) _____ and authorized to conduct business in the State of Illinois, as Surety, are indebted to the Administrator, Illinois Attorney General, 500 South Second Street, Springfield, Illinois 62706, Obligor in the sum of 1950 to be paid to the Obligor or its legal representatives, successors, or assigns, for which payment we bind ourselves and our legal representatives and successors, jointly and severally.

WHEREAS, the above-named principal has made application to the Administrator for registration of the offer of its franchises under the Illinois Franchise Disclosure Act and is required pursuant to said law to provide the Administrator with a Surety Bond.

WHEREAS, the principal proposes to offer in Illinois _____ franchise(s) within one year from the effective date of the proposed registration under the Illinois Franchise Disclosure Act; and

WHEREAS, the Obligor intends to assign this bond to the respective purchaser(s) of the aforementioned franchise(s) upon sale of the aforementioned franchise(s) to said purchaser(s).

The conditions of this bond are that if the Principal, its agent or employees shall:

1. Comply with the Illinois Franchise Disclosure Act and all rules and orders promulgated thereunder; and
2. Pay all damages suffered by any person by reason of the violation of the Illinois Franchise Disclosure Act or any rules or orders promulgated thereunder or any acts, rules or orders amendatory thereof and/or supplementary thereto, or hereafter enacted, or by reason of any misrepresentation, deceit, fraud or omission to state a material fact necessary in order to make any statement made in the light of the circumstances under which such statement was made, not misleading, including, but not limited to, the failure to disclose, as required by Illinois Franchise Disclosure Act and the rules and regulations promulgated thereunder, the true financial condition of franchisor; and

3. Fully completes its obligations under the Franchise Agreement and all related Agreements to provide real estate, improvements, equipment, inventory, training and other items included in the franchise offering, then this obligation shall be void; otherwise this obligation will remain in full force and effect. This bond and obligation hereunder shall be deemed to run continuously and shall remain in full force and effect for four full year after the date of execution of this document.

In the event that any action or proceeding is initiated with respect to this bond, the parties agree that the venue thereof shall be the state or province in which the offer or sale of the franchise occurred.

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

Section 200. APPENDIX F Certificate of Deposit Forms

Section 200. ILLUSTRATION A Franchisor's Petition for Release of Certificate of Deposit

_____) SS
_____) SS
_____) SS

IN THE MATTER OF:

FRANCHISOR:

FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisor hereby requests the Administrator to authorize release of the Certificate of Deposit in the name of the Administrator in the sum of \$16950, plus accrued interest representing the franchise fee paid by _____ January 17, 1996 on the _____ day of _____, 19____.

The undersigned franchisor hereby represents that it has fulfilled the initial obligations owed to the franchisee under the franchise and other agreements and that the franchisee has commenced doing business.

In furtherance of this request, the undersigned franchisor submits the franchisee's statement indicating the franchisee has no objection to this request. By this statement the franchisee has not waived any rights which he may have against the undersigned franchisor.

Franchisor _____

By: _____ Name and Title _____

Subscribe and sworn to before me
this _____ day of _____,
19____.

Printed Name of Franchisee _____

Address of Franchisee _____

Notary Public _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL

NOTICE OF PROPOSED AMENDMENTS

IN WITNESS WHEREOF, Principal and Surety have executed this instrument at
January 17, 1996 this _____ day of _____, 19____.

Principal _____

Surety _____

(Source: Amended at 23 Ill. Reg. _____, effective _____)

ATTORNEY GENERAL
NOTICE OF PROPOSED AMENDMENTS

Section 200. ILLUSTRATION B Franchisee's Petition for Release of Certificate of Deposit

_____) SS
_____) _____

IN THE MATTER OF:
FRANCHISOR:
FRANCHISEE:

BEFORE THE ATTORNEY GENERAL OF ILLINOIS
AS ADMINISTRATOR FOR THE FRANCHISE DISCLOSURE ACT

The undersigned franchisee hereby requests the Administrator to authorize the release of the Certificate of Deposit issued in the name of the Administrator in the sum of \$ _____, plus accrued interest representing the franchisee fee paid by me on the _____ day of _____, 19____.

The undersigned franchisee hereby represents that the franchisor has not fulfilled the initial obligations owed to me under the franchise and other agreements and that I have not has commenced doing business.

In furtherance of this request, the undersigned franchisor submits the franchisee's statement indicating that it has no objection to this request.

Signature

Printed Name of Franchisee

Address of Franchisee

Subscribed and sworn to before me this _____ day of _____, 19____.

Notary Public
(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Pay Plan
- 2) Code Citation: 80 Ill. Adm. Code 310
- 3) Section Numbers: 310.230
Proposed Action: Amend
- 4) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].
- 5) A Complete Description of the Subjects and Issues Involved: In Section 310.230, Part-time Daily or Hourly Special Services Rate, the maximum part-time hourly rate for the Student Worker is being changed from \$8.00 to \$8.40 at the request of the Environmental Protection Agency to assist in recruiting undergraduate students for technical levels of work. Corrects a technical error in the hourly wage for Maintenance Workers.
- 6) Will this proposed rule replace an emergency rule currently in effect? No
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Do these proposed amendments contain any incorporations by reference? No
- 9) Are there any proposed amendments pending to this Part? Yes
- | Section Numbers | Proposed Action | Ill. Reg. Citation |
|--------------------------|-----------------|--------------------|
| 310.Appendix A, Table S | Amend | 22 Ill. Reg. 20431 |
| 310.470 | Amend | 23 Ill. Reg. 5215 |
| 310.Appendix A, Table AA | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table H | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table J | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table O | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table R | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table W | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table X | Amend | 23 Ill. Reg. 5300 |
| 310.Appendix A, Table Y | Amend | 23 Ill. Reg. 5300 |
| 310.280 | Amend | 23 Ill. Reg. 5973 |
| 310.230 | Amend | 23 Ill. Reg. 6533 |
- 10) Statement of Statewide Objectives: These amendments to the Pay Plan pertain only to State employees subject to the Personnel Code and do not set out any guidelines that are to be followed by local or other jurisdictional bodies within the State.
- 11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
 SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
 POSITION CLASSIFICATIONS
 CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
 PAY PLAN

SUBPART A: NARRATIVE

Section	
310.20	Policy and Responsibilities
310.30	Jurisdiction
310.40	Pay Schedules
310.50	Definitions
310.60	Conversion of Base Salary to Pay Period Units
310.70	Conversion of Base Salary to Daily or Hourly Equivalents
310.80	Increases in Pay
310.90	Decreases in Pay
310.100	Other Pay Provisions
310.110	Implementation of Pay Plan Changes for Fiscal Year 1999
310.120	Interpretation and Application of Pay Plan
310.130	Effective Date
310.140	Reinstitution of Within Grade Salary Increases
310.150	Fiscal Year 1985 Pay Changes in Schedule of Salary Grades, Effective July 1, 1984 (Repealed)

SUBPART B: SCHEDULE OF RATES

Section	
310.205	Introduction
310.210	Prevailing Rate
310.220	Negotiated Rate
310.230	Part-time Daily or Hourly Special Services Rate
310.240	Hourly Rate
310.250	Member, Patient and Inmate Rate
310.260	Trainee Rate
310.270	Legislated and Contracted Rate
310.280	Designated Rate
310.290	Out-of-State or Foreign Service Rate
310.300	Educator Schedule for RC-063 and HR-010
310.310	Physician Specialist Rate
310.320	Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
310.330	Excluded Classes Rate (Repealed)

SUBPART C: MERIT COMPENSATION SYSTEM

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Mr. Michael Murphy
 Department of Central Management Services
 Division of Technical Services
 504 William G. Stratton Building
 Springfield, Illinois 62706
 (217) 782-5601

12) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None. The Department of Central Management Services' Pay Plan extends only to Personnel Code employees under the jurisdiction of the Governor.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not known at the time.

The full text of the proposed amendment begins on the next page.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Section 401	Jurisdiction
310.410	Objectives
310.420	Responsibilities
310.430	Merit Compensation Salary Schedule
310.440	Procedures for Determining Annual Merit Increases
310.450	Intermittent Merit Increase
310.455	Merit Zone (Repealed)
310.460	Other Pay Increases
310.470	Adjustment
310.480	Decreases in Pay
310.490	Other Pay Provisions
310.495	Broad-Band Pay Range Classes
310.500	Definitions
310.510	Conversion of Base Salary to Pay Period Units
310.520	Conversion of Base Salary to Daily or Hourly Equivalents
310.530	Implementation
310.540	Annual Merit Increase Guidechart for Fiscal Year 1999
310.550	Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

APPENDIX A

TABLE A	Negotiated Rates of Pay
TABLE B	HR-130 (Department of Central Management Services - State of Illinois Building - SEIU)
TABLE C	HR-916 (Department of Natural Resources, Teamsters)
TABLE D	HR-200 (Department of Labor - Chicago, Illinois - SEIU)
TABLE E	RC-069 (Firefighters, AFSCME) (Repealed)
TABLE F	HR-001 (Teamsters Local #726)
TABLE G	RC-020 (Teamsters Local #320)
TABLE H	RC-019 (Teamsters Local #25)
TABLE I	RC-045 (Automotive Mechanics, IFPE)
TABLE J	RC-006 (Correctional Employees, AFSCME)
TABLE K	RC-009 (Institutional Employees, AFSCME)
TABLE L	RC-014 (Clerical Employees, AFSCME)
TABLE M	RC-023 (Registered Nurses, INA)
TABLE N	RC-008 (Boilermakers)
TABLE O	RC-110 (Conservation Police Lodge)
TABLE P	RC-010 (Professional Legal Unit, AFSCME)
TABLE Q	RC-028 (Paraprofessional Human Services Employees, AFSCME)
TABLE R	RC-029 (Paraprofessional Investigatory and Law Enforcement Employees, IFPE)
TABLE S	RC-033 (Meat Inspectors, IFPE)
TABLE T	RC-042 (Residual Maintenance Workers, AFSCME)
TABLE U	HR-012 (Fair Employment Practices Employees, SEIU)
TABLE V	HR-010 (Teachers of Deaf, ITT)
TABLE W	HR-010 (Teachers of Deaf, Extracurricular Paid Activities)
TABLE X	CU-500 (Corrections, Meet and Confer Employees)
TABLE Y	RC-062 (Technical Employees, AFSCME)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

TABLE X	RC-063 (Professional Employees, AFSCME)
TABLE Y	RC-063 (Educators, AFSCME)
TABLE Z	RC-063 (Physicians, AFSCME)
APPENDIX A	Schedule of Salary Grades - Monthly Rates of Pay for Fiscal Year 1999
APPENDIX B	Medical Administrator Rates for Fiscal Year 1999
APPENDIX C	Merit Compensation System Salary Schedule for Fiscal Year 1999
APPENDIX D	Teaching Salary Schedule (Repealed)
APPENDIX E	Physician and Physician Specialist Salary Schedule (Repealed)
APPENDIX F	Broad-Band Pay Range Classes Salary Schedule for Fiscal Year 1999
APPENDIX G	

AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code (20 ILCS 415/8 and 8a).

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3349, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4245, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984; emergency amendment at 8 Ill. Reg. 12616, effective July 1, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 15007, effective August 6, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 15367, effective August 13, 1984; emergency amendment at 8 Ill. Reg. 21310, effective October 10, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21544, effective October 24, 1984; amended at 8 Ill. Reg. 22844, effective November 14, 1984; emergency amendment at 9 Ill. Reg. 1134, effective January 16, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 1320, effective January 23, 1985; amended at 9 Ill. Reg. 3681, effective March 12, 1985; emergency amendment at 9 Ill. Reg. 4163, effective March 15, 1985, for a maximum of 150 days; emergency amendment at 9 Ill. Reg. 9231, effective May 31, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 9420, effective June 7, 1985; amended at 9 Ill. Reg. 10663, effective July 1, 1985; emergency amendment at 9 Ill. Reg. 15043, effective September 24, 1985, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 3225, effective January 22, 1986; amended at 10 Ill. Reg. 3230, effective January 24, 1986; emergency amendment at 10 Ill. Reg. 8904, effective May 13, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 8928, effective May 13, 1986; emergency amendment at 10 Ill. Reg. 12090, effective June 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 13675, effective July 31, 1986; emergency amendment at 10 Ill. Reg. 14867, effective August 26, 1986; amended at 10 Ill. Reg. 15567, effective September 17, 1986; emergency amendment at 10 Ill. Reg. 17765, effective September 30, 1986, for a maximum of 150 days; emergency amendment at 10 Ill. Reg. 19132, effective October 28, 1986; emergency amendment at 10 Ill. Reg. 21097, effective December 9, 1986; amended at 11 Ill. Reg. 1131, effective January 1, 1987.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

Reg. 648, effective December 22, 1986; peremptory amendment at 11 Ill. Reg. 3363, effective February 3, 1987; peremptory amendment at 11 Ill. Reg. 4388, effective February 27, 1987; peremptory amendment at 11 Ill. Reg. 6294, effective March 23, 1987; amended at 11 Ill. Reg. 5901, effective March 24, 1987; emergency amendment at 11 Ill. Reg. 8787, effective April 15, 1987, for a maximum of 150 days; emergency amendment at 11 Ill. Reg. 11830, effective July 1, 1987, for a maximum of 150 days; peremptory amendment at 11 Ill. Reg. 13675, effective July 29, 1987; amended at 11 Ill. Reg. 14984, effective August 27, 1987; peremptory amendment at 11 Ill. Reg. 15273, effective September 1, 1987; peremptory amendment at 11 Ill. Reg. 17919, effective October 19, 1987; peremptory amendment at 11 Ill. Reg. 19812, effective November 19, 1987; emergency amendment at 11 Ill. Reg. 20664, effective December 4, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20778, effective January 11, 1987; peremptory amendment at 12 Ill. Reg. 3811, effective January 27, 1988; peremptory amendment at 12 Ill. Reg. 5459, effective March 3, 1988; amended at 12 Ill. Reg. 6073, effective March 21, 1988; peremptory amendment at 12 Ill. Reg. 7783, effective April 14, 1988; emergency amendment at 12 Ill. Reg. 7734, effective April 15, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 8135, effective April 22, 1988; peremptory amendment at 12 Ill. Reg. 9745, effective May 23, 1988; emergency amendment at 12 Ill. Reg. 11778, effective July 1, 1988, for a maximum of 150 days; emergency amendment at 12 Ill. Reg. 12695, effective July 16, 1988, for a maximum of 150 days; peremptory amendment at 12 Ill. Reg. 13306, effective July 27, 1988; corrected at 12 Ill. Reg. 13359; amended at 12 Ill. Reg. 14630, effective September 6, 1988; amended at 12 Ill. Reg. 20449, effective November 28, 1988; peremptory amendment at 12 Ill. Reg. 20584, effective November 28, 1988; peremptory amendment at 13 Ill. Reg. 8080, effective May 10, 1989; amended at 13 Ill. Reg. 8849, effective May 30, 1989; peremptory amendment at 13 Ill. Reg. 8970, effective May 26, 1989; emergency amendment at 13 Ill. Reg. 10967, effective June 20, 1989, for a maximum of 150 days; emergency amendment expired on November 17, 1989; amended at 13 Ill. Reg. 11451, effective June 28, 1989; emergency amendment at 13 Ill. Reg. 11854, effective July 1, 1989, for a maximum of 150 days; corrected at 13 Ill. Reg. 12647; peremptory amendment at 13 Ill. Reg. 12887, effective July 24, 1989; amended at 13 Ill. Reg. 16550, effective October 20, 1989; amended at 13 Ill. Reg. 19221, effective December 12, 1989; amended at 14 Ill. Reg. 615, effective January 2, 1990; peremptory amendment at 14 Ill. Reg. 1627, effective January 11, 1990; amended at 14 Ill. Reg. 4455, effective March 12, 1990; peremptory amendment at 14 Ill. Reg. 7652, effective May 7, 1990; amended at 14 Ill. Reg. 10002, effective June 11, 1990; emergency amendment at 14 Ill. Reg. 11330, effective June 29, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14364, effective August 24, 1990; emergency amendment at 14 Ill. Reg. 15570, effective September 11, 1990, for a maximum of 150 days; emergency amendment expired on February 8, 1991; corrected at 14 Ill. Reg. 16092; peremptory amendment at 14 Ill. Reg. 17098, effective September 26, 1990; amended at 14 Ill. Reg. 17189, effective October 2, 1990; amended at 14 Ill. Reg. 17189, effective October 19, 1990; amended at 14 Ill. Reg. 18719, effective November 13, 1990; peremptory amendment at 14 Ill. Reg. 18854, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663, effective November 13, 1990; peremptory amendment at 15 Ill. Reg. 663,

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

effective January 7, 1991; amended at 15 Ill. Reg. 3296, effective February 14, 1991; amended at 15 Ill. Reg. 4401, effective March 11, 1991; peremptory amendment at 15 Ill. Reg. 5100, effective March 20, 1991; peremptory amendment at 15 Ill. Reg. 5465, effective April 2, 1991; emergency amendment at 15 Ill. Reg. 10485, effective July 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 11080, effective July 19, 1991; amended at 15 Ill. Reg. 13080, effective August 21, 1991; amended at 15 Ill. Reg. 14210, effective September 23, 1991; emergency amendment at 16 Ill. Reg. 711, effective February 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3450, effective February 20, 1991; peremptory amendment at 16 Ill. Reg. 5068, effective March 11, 1991; peremptory amendment at 16 Ill. Reg. 7056, effective April 20, 1991; emergency amendment at 16 Ill. Reg. 8239, effective May 19, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8382, effective May 26, 1991; emergency amendment at 16 Ill. Reg. 13950, effective August 19, 1991, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14452, effective September 4, 1991, for a maximum of 150 days; amended at 17 Ill. Reg. 238, effective December 23, 1991; peremptory amendment at 17 Ill. Reg. 498, effective December 18, 1992; amended at 17 Ill. Reg. 590, effective January 4, 1993; amended at 17 Ill. Reg. 8119, effective February 2, 1993; amended at 17 Ill. Reg. 6441, effective April 6, 1993; emergency amendment at 17 Ill. Reg. 12900, effective July 22, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 13409, effective July 29, 1993; emergency amendment at 17 Ill. Reg. 13789, effective August 9, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 14666, effective August 26, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 19103, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 21859, effective December 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 22514, effective December 15, 1993; amended at 18 Ill. Reg. 227, effective December 17, 1993; amended at 18 Ill. Reg. 1107, effective January 18, 1994; amended at 18 Ill. Reg. 5146, effective March 21, 1994; peremptory amendment at 18 Ill. Reg. 9562, effective June 13, 1994; emergency amendment at 18 Ill. Reg. 11299, effective July 1, 1994, for a maximum of 150 days; peremptory amendment at 18 Ill. Reg. 13476, effective August 17, 1994; emergency amendment at 18 Ill. Reg. 14417, effective September 9, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16545, effective October 31, 1994; peremptory amendment at 18 Ill. Reg. 16708, effective October 28, 1994; amended at 18 Ill. Reg. 17191, effective November 21, 1994; amended at 19 Ill. Reg. 1024, effective January 24, 1995; peremptory amendment at 19 Ill. Reg. 2481, effective February 17, 1995; peremptory amendment at 19 Ill. Reg. 3073, effective February 17, 1995; amended at 19 Ill. Reg. 3456, effective March 7, 1995; peremptory amendment at 19 Ill. Reg. 5145, effective March 14, 1995; amended at 19 Ill. Reg. 6452, effective May 2, 1995; peremptory amendment at 19 Ill. Reg. 6688, effective May 11, 1995; amended at 19 Ill. Reg. 7841, effective June 11, 1995; amended at 19 Ill. Reg. 8156, effective June 12, 1995; amended at 19 Ill. Reg. 9096, effective June 27, 1995; emergency amendment at 19 Ill. Reg. 11954, effective August 1, 1995, for a maximum of 150 days; peremptory amendment at 19 Ill. Reg. 13379, effective September 19, 1995; peremptory amendment at 19 Ill. Reg. 15103, effective October 12, 1995; amended at 19 Ill. Reg. 16160, effective November 28, 1995; amended at 20 Ill. Reg. 308, effective December

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

22, 1995; for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 4060, effective February 27, 1996, for a maximum of 150 days; peremptory amendment at 20 Ill. Reg. 6334, effective April 22, 1996; peremptory amendment at 20 Ill. Reg. 7434, effective May 14, 1996; amended at 20 Ill. Reg. 8301, effective June 11, 1996; amended at 20 Ill. Reg. 8657, effective June 20, 1996; amended at 20 Ill. Reg. 9006, effective June 26, 1996; amended at 20 Ill. Reg. 9925, effective July 10, 1996; emergency amendment at 20 Ill. Reg. 10213, effective July 15, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10841, effective August 5, 1996; peremptory amendment at 20 Ill. Reg. 13408, effective September 24, 1996; amended at 20 Ill. Reg. 15018, effective November 7, 1996; peremptory amendment at 20 Ill. Reg. 15092, effective November 7, 1996; emergency amendment at 21 Ill. Reg. 1023, effective January 6, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 1629, effective January 22, 1997; amended at 21 Ill. Reg. 5144, effective April 15, 1997; amended at 21 Ill. Reg. 8444, effective May 15, 1997; amended at 21 Ill. Reg. 7118, effective June 3, 1997; emergency amendment at 21 Ill. Reg. 10061, effective July 21, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 12859, effective September 8, 1997, for a maximum of 150 days; peremptory amendment at 21 Ill. Reg. 14267, effective October 14, 1997; peremptory amendment at 21 Ill. Reg. 14589, effective October 15, 1997; peremptory amendment at 21 Ill. Reg. 15030, effective November 10, 1997; amended at 21 Ill. Reg. 16344, effective December 9, 1997; peremptory amendment at 21 Ill. Reg. 16465, effective December 4, 1997; peremptory amendment at 21 Ill. Reg. 17167, effective December 9, 1997; peremptory amendment at 22 Ill. Reg. 1593, effective December 22, 1997; amended at 22 Ill. Reg. 2580, effective January 14, 1998; peremptory amendment at 22 Ill. Reg. 4326, effective February 13, 1998; peremptory amendment at 22 Ill. Reg. 5108, effective February 26, 1998; peremptory amendment at 22 Ill. Reg. 5749, effective March 3, 1998; amended at 22 Ill. Reg. 6204, effective March 12, 1998; peremptory amendment at 22 Ill. Reg. 7053, effective April 1, 1998; peremptory amendment at 22 Ill. Reg. 7692, effective April 20, 1998; emergency amendment at 22 Ill. Reg. 12607, effective July 2, 1998, for a maximum of 150 days; peremptory amendment at 22 Ill. Reg. 15489, effective August 7, 1998; amended at 22 Ill. Reg. 16158, effective August 30, 1998; peremptory amendment at 22 Ill. Reg. 19105, effective October 27, 1998; peremptory amendment at 22 Ill. Reg. 19943, effective November 5, 1998; amended at 22 Ill. Reg. 20581, effective November 16, 1998; amended at 23 Ill. Reg. 664, effective January 1, 1999; peremptory amendment at 23 Ill. Reg. 730, effective December 29, 1998; emergency amendment at 23 Ill. Reg. 6533, effective May 10, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

SUBPART B: SCHEDULE OF RATES

Section 310.230 Part-Time time Daily or Hourly Special Services Rate

The rate of pay as approved by the Director of Central Management Services for persons employed on a consultative or part-time basis requiring irregular hours

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

of work shall be as listed below, except the total compensation of an employee in any given month shall not exceed the monthly rate of Step 5 of the salary grade for the title as shown in the Schedule of Salary Grades (Appendix B) of this Part if the class title is subject to the Schedule of Salary Grades, or Step 5 of the negotiated salary range for classes of positions shown in Section 310.220, Subpart B, Schedule of Rates, or 75% of the maximum rate of those classes of positions subject to the provisions of the Merit Compensation System, Subpart C of this Pay Plan.

Account Technician II

	11.00 to 14.08 (hourly)
	83 to 106 (daily)
Apiary Inspector	8.28 to 10.15 (hourly)
Building/Grounds Laborer	5.15 to 6.00 (hourly)
Building/Grounds Lead II	5.15 to 7.00 (hourly)
Building/Grounds Lead II	5.25 to 8.00 (hourly)
Building/Grounds Maintenance Worker	5.15 to 6.00 (hourly)
Chaplain I	39 to 70 (daily)
Chemist I	39 to 45 (daily)

Conservation/Historic Preservation

Worker	5.15 to 6.50 (hourly)
Conservation/Historic Preservation Worker (2nd season -- site interpretation)	5.15 to 6.50 (hourly)
Conservation/Historic Preservation Worker (3rd season -- site interpretation)	5.15 to 6.50 (hourly)

Dentist I

Dentist I	70 to 150 (daily)
Dentist II	100 to 185 (daily)
Educator	39 to 85 (daily)
Educator Aide	39 (daily)
Guard II	67 to 84 (daily)
Guard III	75 to 96 (daily)
Hearing and Speech Advanced Specialist	15 to 30 (hourly)

Hearings Referee

Hearings Referee	75 to 200 (daily)
Janitor I	5.15 to 5.30 (hourly)
Janitor II	5.15 to 6.00 (hourly)
Labor Maintenance Lead Worker	39 to 70 (daily)
Labor Relations Investigator	5.15 to 5.70 (hourly)
Maintenance Worker	5.15 to 5.70 (hourly)
Occupational Therapist	40 to 160 (daily)
Program Coordinator	8.36 to 11.03 (hourly)
Office Aide	62 to 83 (daily)

Specialist

Specialist	75 to 200 (daily)
Janitor I	5.15 to 5.30 (hourly)
Janitor II	5.15 to 6.00 (hourly)
Labor Maintenance Lead Worker	39 to 70 (daily)
Labor Relations Investigator	5.15 to 5.70 (hourly)
Maintenance Worker	5.15 to 5.70 (hourly)
Occupational Therapist	40 to 160 (daily)
Program Coordinator	8.36 to 11.03 (hourly)
Office Aide	62 to 83 (daily)

Hearings Referee

Hearings Referee	75 to 200 (daily)
Janitor I	5.15 to 5.30 (hourly)
Janitor II	5.15 to 6.00 (hourly)
Labor Maintenance Lead Worker	39 to 70 (daily)
Labor Relations Investigator	5.15 to 5.70 (hourly)
Maintenance Worker	5.15 to 5.70 (hourly)
Occupational Therapist	40 to 160 (daily)
Program Coordinator	8.36 to 11.03 (hourly)
Office Aide	62 to 83 (daily)

Specialist

Specialist	75 to 200 (daily)
Janitor I	5.15 to 5.30 (hourly)
Janitor II	5.15 to 6.00 (hourly)
Labor Maintenance Lead Worker	39 to 70 (daily)
Labor Relations Investigator	5.15 to 5.70 (hourly)
Maintenance Worker	5.15 to 5.70 (hourly)
Occupational Therapist	40 to 160 (daily)
Program Coordinator	8.36 to 11.03 (hourly)
Office Aide	62 to 83 (daily)

Office Assistant

Office Assistant	9.44 to 12.74 (hourly)
	70 to 96 (daily)

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Office Associate

10.10 to 13.84 (hourly)

75 to 104 (daily)

Office Clerk

8.83 to 11.83 (hourly)

66 to 89 (daily)

Optometrist

15 to 35 (hourly)

50 to 160 (daily)

Physician

100 to 300 (daily)

Physician Specialist (A)

20 to 60 (hourly)

Physician Specialist (B)

100 to 325 (daily)

Physician Specialist (C)

20 to 70 (hourly)

100 to 350 (daily)

Physician Specialist (D)

20 to 105 (hourly)

100 to 360 (daily)

20 to 115 (hourly)

100 to 370 (daily)

50 to 125 (daily)

39 to 80 (daily)

40 to 125 (daily)

40 to 150 (daily)

5.33 (hourly)

40 to 45 (daily)

39 to 54 (daily)

41 to 56 (daily)

43 to 58 (daily)

44 to 59 (daily)

43 to 58 (daily)

44 to 59 (daily)

45 to 60 (daily)

47 to 62 (daily)

11.56 to 16.16 (hourly)

86 to 122 (daily)

39 to 75 (daily)

39 to 80 (daily)

5.15 to 8.40 8-09 (hourly)

32 to 35 (hourly)

32 to 60 (hourly)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

95 to 130 (daily)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PROPOSED AMENDMENT

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

- 1) **Heading of Part:** Minimum Standards for Individual and Group Medicare Supplement Insurance
- 2) **Code Citation:** 50 Ill. Adm. Code 2008
- 3) **Section Numbers:** 2008.71
Amendment
2008.APPENDIX B
Amendment
- 4) **Statutory Authority:** Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/363 and 363a].

5) **A Complete Description of the Subjects and Issues Involved:** The Health Care Financing Administration (HCFA) has asked all states to incorporate changes regarding copayments for hospital outpatient department services. These changes were recently delineated to the states by HCFA in a memo dated January 7, 1999.

This amendment will clarify that copayments for hospital outpatient department services under Part B of Medicare must be covered under the "core benefits" of a Medicare supplement insurance policy in the same manner as coinsurance for those services. This amendment is, however, related to changes in Medicare payment systems that will not take place until sometime in 2000 when HCFA establishes a prospective payment system for hospital outpatient services and procedures. This new system will establish fixed copayments which will approach 20% of the cost of the services over time.

6) Will this proposed amendment replace an emergency rule currently in effect? No

7) Does this amendment contain an automatic repeal date? No

8) Does this proposed amendment contain incorporations by reference? No

9) Are there any other proposed amendments pending on this Part? No

10) **Statement of Statewide Policy Objectives:** This rule will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

David Van Lieshout
Assistant Chief Counsel
Denise Hamilton
Rules Unit Supervisor

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Department of Insurance
320 West Washington
Springfield, Illinois 62767-0001
(217) 782-0708
(217) 785-8560

12) **Initial Regulatory Flexibility Analysis:**

- A) Types of small businesses, small municipalities and not for profit corporations affected: This amendment will not affect small businesses, municipalities or not for profit corporations.
- B) Reporting, bookkeeping or other procedures required for compliance: No new requirements under this amendment.
- C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because: the Department was just informed by HCFA that Part 2008 would require additional revisions for the State of Illinois to maintain our Medicare Supplement certification. HCFA's memo to all states was dated January 7, 1999.

The full text of the Proposed Amendment begins on the next page:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER 1: DEPARTMENT OF INSURANCE
SUBCHAPTER 2: ACCIDENT AND HEALTH INSURANCE

PART 2008
MINIMUM STANDARDS FOR INDIVIDUAL
AND GROUP MEDICARE SUPPLEMENT INSURANCE

Section	Authority
2008.10	Purpose
2008.20	Applicability and Scope
2008.30	Definitions
2008.40	Creditable Coverage
2008.45	Policy Definitions and Terms
2008.50	Policy Provisions
2008.60	Benefit Conversion Requirements During Transition (Repealed)
2008.61	Minimum Benefit Standards for Policies or Certificates Issued or Delivered Prior to the Effective Date of this Part
2008.70	Benefit Standards for Policies or Certificates Issued or Delivered on or After the Effective Date of this Part
2008.71	Standard Medicare Supplement Benefit Plans
2008.72	Medicare Select Policies and Certificates
2008.73	Open Enrollment
2008.74	Guaranteed Issue for Eligible Persons
2008.75	Standards for Claims Payment
2008.76	Loss Ratio Standards and Refund or Credit of Premium
2008.80	Filing and Approval of Policies and Certificates and Premium Rates
2008.81	Permitted Compensation Arrangements
2008.82	Required Disclosure Provisions
2008.90	Instructions for Use of the Disclosure Statements for Health Insurance Policies Sold to Medicare Beneficiaries that Duplicate Medicare
2008.100	Requirements for Application Forms and Replacement Coverage
2008.101	Standards for Marketing
2008.102	Appropriateness of Recommended Purchase and Excessive Insurance
2008.103	Reporting of Multiple Policies
2008.104	Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods and Probationary Periods in Replacement Policies or Certificates
2008.110	Severability
2008.120	Effective Date (Repealed)
APPENDIX A	Policy Checklist
APPENDIX B	Outline of Medicare Supplement Coverage-Cover Page
APPENDIX C	Plan A
APPENDIX D	Plan B
APPENDIX E	Plan C
APPENDIX F	Plan D

DEPARTMENT OF INSURANCE

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APPENDIX G	Plan E
APPENDIX H	Plan F or High Deductible Plan F*
APPENDIX I	Plan G
APPENDIX J	Plan H
APPENDIX K	Plan I
APPENDIX L	Plan J
APPENDIX M	Plan J or High Deductible Plan J*
APPENDIX N	Notice to Applicant Regarding Replacement of Accident and Sickness Insurance
APPENDIX O	Medicare Supplement Refund Calculation Format
APPENDIX P	Notice of Medicare Changes
APPENDIX Q	Medicare Supplement Policies Report Disclosure Statements

AUTHORITY: Implementing Sections 363 and 363a and authorized by Section 401 of the Illinois Insurance Code (215 ILCS 5/363, 363a and 401).

SOURCE: Adopted at 6 Ill. Reg. 7115, effective June 1, 1982 and January 1, 1983; codified at 7 Ill. Reg. 3474; emergency amendment at 13 Ill. Reg. 586, effective January 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 8520, effective May 23, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 27, 1990; amended at 16 Ill. Reg. 2766, effective February 11, 1992; corrected at 16 Ill. Reg. 3590; amended at 16 Ill. Reg. 15452, effective September 29, 1992; emergency amendment at 16 Ill. Reg. 19226, effective December 1, 1992, for a maximum of 150 days; emergency expired April 29, 1993; amended at 17 Ill. Reg. 11469, effective July 9, 1993; amended at 20 Ill. Reg. 6393, effective April 28, 1996; amended at 23 Ill. Reg. 3704, effective March 10, 1999; amended at 23 Ill. Reg. _____, effective _____.

Section 2008.71 Benefit Standards for Policies or Certificates Issued or Delivered on or After the Effective Date of this Part

The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this State on or after the effective date of this Part. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this State as a Medicare supplement policy or certificate unless it complies with these benefit standards.

a) General Standards

The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this Part.

- 1) A Medicare supplement policy or certificate shall not exclude or limit benefits for losses incurred more than six-t 6 months from the effective date of coverage because the losses involved a preexisting condition. The policy or certificate may not define a preexisting condition more restrictively than as a condition for which medical advice was given or treatment was recommended by or received from a physician within six-t 6 months before the

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- effective date of coverage.
- 2) A Medicare supplement policy or certificate shall not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents.
 - 3) A Medicare supplement policy or certificate shall provide that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible amount and copayment percentage factors. Premiums may be modified to correspond with such changes.
 - 4) No Medicare supplement policy or certificate shall provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium.
 - 5) Each Medicare supplement policy shall be guaranteed renewable and:
 - A) The issuer shall not cancel or nonrenew the policy solely on the ground of health status of the individual;
 - B) The issuer shall not cancel or nonrenew the policy for any reason other than nonpayment of premium or material misrepresentation;
 - C) If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Section 2008.71(a)(5)(E), the issuer shall offer certificateholders an individual Medicare supplement policy which (at the option of the certificateholder):
 - i) Provides for continuation of the benefits contained in the group policy, or
 - ii) Provides for such benefits as otherwise meet the requirements of this subsection;
 - D) If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer shall:
 - i) Offer the certificateholder the conversion opportunity described in Section 2008.71(a)(5)(C), or
 - ii) At the option of the group policyholder, offer the certificateholder continuation of coverage under the group policy; and
 - E) If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy shall offer coverage to all persons covered under the old policy on its date of termination. Coverage under the new policy shall not result in any exclusion for pre-existing conditions that would have been covered under the group policy being replaced.
 - 6) Termination of a Medicare supplement policy or certificate shall be without prejudice to any continuous loss which commenced while

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- the policy was in force, but the extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits.
- 7) A Medicare supplement policy or certificate shall provide:
 - A) That benefits and premiums under the policy or certificate shall be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of such policy or certificate within ninety (90) days after the date the individual becomes entitled to such assistance.
 - B) If such suspension occurs and if the policyholder or certificateholder loses entitlement to such medical assistance, such policy or certificate shall be automatically reinstated (effective as of the date of termination of such entitlement) as of the termination of such entitlement if the policyholder or certificateholder provides notice of loss of such entitlement within ninety (90) days after the date of such loss and pays the premium attributable to the period, effective as of the date of termination of such entitlement.
 - C) Reinstatement of such coverages:
 - i) Shall not provide for any waiting period with respect to treatment of preexisting conditions;
 - ii) Shall provide for coverage which is substantially equivalent to coverage in effect before the date of such suspension; and
 - iii) Shall provide for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended.
 - b) Standards for Basic ("Core") Benefits Common to All Benefit Plans

Every issuer shall make available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic "core" package, but not in lieu thereof.

 - 1) Coverage of Part A Medicare Eligible Expenses for hospitalization to the extent not covered by Medicare from the first day through the 90th day in any Medicare benefit period;
 - 2) Coverage of Part A Medicare Eligible Expenses incurred for hospitalization to the extent not covered by Medicare for each

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- Medicare lifetime inpatient reserve day used;
- 3) Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of the Medicare Part A eligible expenses for hospitalization paid at the Diagnostic Related Group (DRG) day outlier per diem or other appropriate standard of payment, subject to a lifetime maximum benefit of an additional 365 days;
 - 4) Coverage under Medicare Parts A and B for the reasonable cost of the first three- $\frac{1}{2}$ 34 pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations;
 - 5) Coverage for the coinsurance amount (or in the case of hospital outpatient department services under a prospective payment system, the copayment amount) of Medicare Eligible Expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible;
 - c) Standards for Additional Benefits
The following additional benefits shall be included in Medicare Supplement Benefit Plans "B" through "J" only as provided by Section 2008.72 of this Part.
 - 1) Medicare Part A Deductible: Coverage for all of the Medicare Part A inpatient hospital deductible amount per benefit period.
 - 2) Skilled Nursing Facility Care: Coverage for the actual billed charges up to the coinsurance amount from the 21st day through the 100th day in a Medicare benefit period for posthospital skilled nursing facility care eligible under Medicare Part A.
 - 3) Medicare Part B Deductible: Coverage for all of the Medicare Part B deductible amount per calendar year regardless of hospital confinement.
 - 4) Eighty Percent (80%) of the Medicare Part B Excess Charges: Coverage for eighty-percent- $\frac{1}{2}$ 80% of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or State law, and the Medicare-approved Part B charge.
 - 5) One Hundred Percent (100%) of the Medicare Part B Excess Charges: Coverage for all of the difference between the actual Medicare Part B charge as billed, not to exceed any charge limitation established by the Medicare program or State law, and the Medicare-approved Part B charge.
 - 6) Basic Outpatient Prescription Drug Benefit: Coverage for fifty percent- $\frac{1}{2}$ 50% of outpatient prescription drug charges, after a two-hundred-fifty-dollar- $\frac{1}{2}$ \$250 calendar year deductible, to a maximum of one-thousand-two-hundred-fifty-dollars- $\frac{1}{2}$ \$1,250 in benefits received by the insured per calendar year, to the extent not covered by Medicare.
 - 7) Extended Outpatient Prescription Drug Benefit: Coverage for fifty-percent- $\frac{1}{2}$ 50% of outpatient prescription drug charges, after a two-hundred-fifty-dollar- $\frac{1}{2}$ \$250 calendar year deductible

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- to a maximum of three-thousand-dollars- $\frac{1}{2}$ \$3,000 in benefits received by the insured per calendar year, to the extent not covered by Medicare.
- 8) Medically Necessary Emergency Care in a Foreign Country: Coverage to the extent not covered by Medicare for eighty-percent- $\frac{1}{2}$ 80% of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty- $\frac{1}{2}$ 60 consecutive days of each trip outside the United States, subject to a calendar year deductible of two-hundred-fifty-dollars- $\frac{1}{2}$ \$250, and a lifetime maximum benefit of fifty-thousand-dollars- $\frac{1}{2}$ \$50,000. For purposes of this benefit, "emergency care" shall mean care needed immediately because of an injury or illness of sudden and unexpected onset.
 - 9) Preventive Medical Care Benefit: Coverage for the following examination and preventive health services:
 - A) An annual clinical preventive medical history and physical examination that may include tests and services from subsection (c)(9)(B) below and patient education to address preventive health care measures.
 - B) Any one or a combination of the following preventive screening tests or preventive services, the frequency of which is considered medically appropriate:
 - i) Fecal occult blood test and/or digital rectal examination;
 - ii) Mammogram;
 - iii) Dipstick urinalysis for hematuria, bacteriuria and proteinuria;
 - iv) Pure tone (air only) hearing screening test, administered or ordered by a physician;
 - v) Serum cholesterol screening (every five- $\frac{1}{2}$ 5 years);
 - vi) Thyroid function test;
 - vii) Diabetes screening.
 - C) Influenza vaccine administered at any appropriate time during the year and Tetanus and Diphtheria booster (every ten- $\frac{1}{2}$ 10 years).
 - D) Any other tests or preventive measures determined appropriate by the attending physician.
 - E) Reimbursement shall be for the actual charges up to one hundred-percent- $\frac{1}{2}$ 100% of the Medicare-approved amount for each service, as if Medicare were to cover the service as identified in American Medical Association Current Procedural Terminology (AMA CPT) codes, to a maximum of one hundred-twenty-dollars- $\frac{1}{2}$ \$120 annually under this benefit. This benefit shall not include payment for any procedure covered by Medicare.

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10) At-Home Recovery Benefit: Coverage for services to provide short term, at-home assistance with activities of daily living for those recovering from an illness, injury or surgery.

A) For purposes of this benefit, the following definitions shall apply:

i) "Activities of daily living" include but are not limited to bathing, dressing, personal hygiene, transferring, eating, ambulating, assistance with drugs that are normally self-administered, and changing bandages or other dressings.

ii) "Care provider" means a duly qualified or licensed home health aide/homemaker, personal care aide or nurse provided through a licensed home health care agency or referred by a licensed referral agency or licensed nurses registry.

iii) "Home" shall mean any place used by the insured as a place of residence, provided that such place would qualify as a residence for home health care services covered by Medicare. A hospital or skilled nursing facility shall not be considered the insured's place of residence.

iv) "At-home recovery visit" means the period of a visit required to provide at home recovery care, without limit on the duration of the visit, except each consecutive 4 hours in a 24-hour period of services provided by a care provider is one visit.

B) Coverage Requirements and Limitations

i) At-home recovery services provided must be primarily services which assist in activities of daily living.

ii) The insured's attending physician must certify that the specific type and frequency of at-home recovery services are necessary because of a condition for which a home care plan of treatment was approved by Medicare.

iii) Coverage is limited to:

No more than the number and type of at-home recovery visits certified as necessary by the insured's attending physician. The total number of at-home recovery visits shall not exceed the number of Medicare approved home health care visits under a Medicare approved home care plan of treatment.

The actual charges for each visit up to a maximum reimbursement of forty-dollars-\$40; per visit.

One-thousand-six-hundred-dollars--\$1,600+ per calendar year.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Seven-(7) visits in any one week.

Care furnished on a visiting basis in the insured's home.

Services provided by a care provider as defined in this Section.

At-home recovery visits while the insured is covered under the policy or certificate and not otherwise excluded.

At-home recovery visits received during the period the insured is receiving Medicare approved home care services or no more than eight-(8) weeks after the service date of the last Medicare approved home health care visit.

C) Coverage is excluded for:

i) Home care visits paid for by Medicare or other government programs; and
ii) Care provided by family members, unpaid volunteers or providers who are not care providers.

11) New or Innovative Benefits: An issuer may, with the prior approval of the Director, offer policies or certificates with new or innovative benefits in addition to the benefits provided in a policy or certificate that otherwise complies with the applicable standards. Such new or innovative benefits may include benefits that are appropriate to Medicare supplement insurance, new or innovative, not otherwise available, cost-effective, and offered in a manner which is consistent with the goal of simplification of Medicare supplement policies.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

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SECTION 0808. APPENDIX B. Outline Of Medicare Supplement Coverage—Cover Page

[COMPANY NAME]

Outline of Medicare Supplement Coverage—Cover Page:

Benefit Plan(s) _____ [insert letter(s) of plan(s) being offered]

Medicare supplement insurance can be sold in only ten standard plans plus two high deductible plans. This chart shows the benefits included in each plan. Every company must make available Plan "A". Some plans may not be available in Illinois.

BASIC BENEFITS: Included in All Plans.

Hospitalization: Part A coinsurance plus coverage for 365 additional days after Medicare benefits end.

Medical Expenses: Part B coinsurance (20% of Medicare-approved expenses), or in the case of hospital outpatient department services under a prospective payment system, applicable copayments.

Blood: First three pints of blood each year.

A	B	C	D	E
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
	Part B Deductible	Part B Deductible		
	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
			At-Home Recovery	
				Preventive Care

(continued)

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F*	G	H	I	J	J*
Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits	Basic Benefits
Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance	Skilled Nursing Co-Insurance
Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible	Part A Deductible
Part B Deductible				Part B Deductible	
Part B Excess (100%)	Part B Excess (80%)		Part B Excess (100%)	Part B Excess (100%)	Part B Excess (100%)
Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency	Foreign Travel Emergency
	At-Home Recovery		At-Home Recovery	At-Home Recovery	At-Home Recovery
		Basic Drugs (\$_____)	Basic Drugs (\$_____)	Extended Drugs (\$_____)	Extended Drugs (\$_____)
				Preventive Care	Preventive Care

Plans F and J also have an option called a high deductible plan F and a high deductible plan J*. These high deductible plans pay the same or offer the same benefits as Plans F and J after one has paid a calendar year (\$1500) deductible. Benefits from high deductible plans F and J will not begin until out-of-pocket expenses are \$1500. Out-of-pocket expenses for this deductible are expenses that would ordinarily be paid by the policy. These expenses include the Medicare deductibles for Part A and Part B, but does not include, in plan J, the plan's separate prescription drug deductible or, in Plans F and J, the plan's separate foreign travel emergency deductible.

NOTE:

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Companies must add the current fixed dollar amount authorized by Medicare where the brackets appear above. The dollar amount is updated periodically by Medicare and companies must reflect these changes to their outlines of coverage in a timely manner.

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PREMIUM INFORMATION [Boldface Type]

We (insert issuer's name) can only raise your premium if we raise the premium for all policies like yours in this State. [If the premium is based on the increasing age of the insured, include information specifying when premiums will change.]

DISCLOSURES [Boldface Type]

Use this outline to compare benefits and premiums among policies.

READ YOUR POLICY VERY CAREFULLY

This is only an outline, describing your policy's most important features. The policy is your insurance contract. You must read the policy itself to understand all of the rights and duties of both you and your insurance company.

RIGHT TO RETURN POLICY [Boldface Type]

If you find that you are not satisfied with your policy, you may return it to [insert issuer's address]. If you send the policy back to us within 30 days after you receive it, we will treat the policy as if it had never been issued and return all of your payments.

POLICY REPLACEMENT [Boldface Type]

If you are replacing another health insurance policy, do NOT cancel it until you have actually received your new policy and are sure you want to keep it.

NOTICE [Boldface Type]

This policy may not fully cover all of your medical costs.

(for producers:)

Neither (insert company's name) nor its agents are connected with Medicare.

(for direct response:)

(insert company's name) is not connected with Medicare.

This outline of coverage does not give all the details of Medicare coverage. Contact your local Social Security office or consult "The Medicare Handbook" for more details.

COMPLETE ANSWERS ARE VERY IMPORTANT [Boldface Type]

When you fill out the application for the new policy, be sure to answer truthfully and completely all questions about your medical and health history. The company may cancel your policy and refuse to pay any claims if you leave out or falsify important medical information. [If the policy or certificate is

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guaranteed issue, this paragraph need not appear.)
Review the application carefully before you sign it. Be certain that all information has been properly recorded.

[Include for each plan prominently identified on the cover page, a chart showing the services, Medicare payments, plan payments and insured payments for each plan, using the same language, in the same order, using uniform layout and format as shown in Appendices C through L of this Part. No more than four plans may be shown on one chart. For purposes of illustration, charts for each plan are included in this Appendix. An issuer may use additional benefit plan designations on these charts pursuant to Section 2008.72(d) of this Part.]

[Include an explanation of any innovative benefits on the cover page and in the chart, in a manner approved by the Director of Insurance.]

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Hospice Programs

2) Code Citation: 77 Ill. Adm. Code 280

3) Section Numbers: Proposed Action:
280.1000 Amendment
280.1020 Amendment
280.2000 Amendment
280.2010 Amendment
280.2030 Amendment
280.4010 Amendment
280.4015 New Section

4) Statutory Authority: Hospice Program Licensing Act (210 ILCS 60)

5) A Complete Description of the Subjects and Issues Involved:

In Section 280.1000 (Definitions), a definition of "Multiple hospice location" has been added. A multiple hospice location is a site from which the hospice program provides services within a portion of the total geographic area that the program serves.

In Section 280.1020 (Licensure Procedures), the term "workstations" has been replaced with "multiple hospice locations".

In Section 280.2000 (Hospice Services Plan), subsection (h) has been revised to require the description of the program's recordkeeping system to include multiple hospice locations.

In Section 280.2010, requirements governing multiple hospice locations have been added. A multiple hospice location may not offer services that are different from those offered by the licensed hospice program. Activities and patient care are to be integrated into the licensed hospice program. A multiple hospice location that is found to be operating in a semi-autonomous manner will be required to be independently licensed.

Section 280.2030 (Policies and Procedures) has been amended to include a cross-reference.

In Section 280.4010 (Licensure of Hospice Residences), license application requirements have been amended to include requirements for a needs assessment and cost analysis and documentation of approval by the Governing Body of the applying licensed hospice program to proceed with the application, as well as a commitment to expend the necessary funds and assignment of the responsibility for moving forward with the application/implementation. The Department will award "license certificates", valid for one year, to applicants that meet the requirements of Section 280.4015, in specified geographic areas and in the

DEPARTMENT OF PUBLIC HEALTH

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order in which applications are received. License certificates may be renewed and must be converted to a full license by the end of the second year.

A new Section 280.4015 is being added (Hospice Residence Application and Approval Review Criteria). Applications received will be deemed complete by the Department and may not be amended or supplemented. Points will be awarded based on completeness of the application; documentation of a completed needs assessment and cost analysis; documentation of approval of the hospice's Governing Body; and whether the proposed residence meets the statutory definition.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? Yes

7) Does this Rulemaking Contain an Automatic Repeal Date? No

8) Does this Rulemaking Contain Any Incorporations By Reference? No

9) Are there any other Proposed Amendments Pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.

11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
E-mail: rules@dph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at the above address.

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Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses, Small Municipalities and Not-for-Profit Corporations Affected: Hospice programs
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: All procedures are set forth in the proposed amendments.
- C) Types of Professional Skills Necessary for Compliance: Hospice care administration

13) Regulatory Agenda on which this rulemaking was summarized: This rule was not included on either of the 2 most recent agendas because: This rulemaking accompanies an emergency rulemaking. The rulemakings were not anticipated by the Agency and were not included on a regulatory agenda.

The full text of the Proposed Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
 CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
 SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 280

HOSPICE PROGRAMS

SUBPART A: LICENSURE

Section	
280.1000	Definitions
280.1010	Incorporated and Referenced Materials
280.1020	Licensure Procedures
280.1030	Statement of Ownership
280.1040	Inspections and Investigations
280.1050	Notice of Violation and Plan of Correction
280.1060	Adverse Licensure Actions

SUBPART B: HOSPICE SERVICES

Section	
280.2000	Hospice Service Plan
280.2010	Hospice Services
280.2020	Administrator
280.2030	Policies and Procedures
280.2040	Personnel Policies
280.2045	Initial Health Evaluation for Employees
280.2050	Patient Rights
280.2060	Clinical Records
280.2070	Medical Director and Physician Services
280.2080	Hospice Program Care
280.2090	Quality Assurance Plan/Utilization Review
280.3000	Research or Experimental Programs

SUBPART C: INPATIENT CARE

Section	
280.4000	Inpatient Care Facilities
280.4010	Licensure of Hospice Residences
280.4015	Hospice Residence Application and Approval Review Criteria
280.4020	Hospice Residence Admission and Discharge
280.4030	Hospice Residence Nursing Care and Assistance in Activities of Daily Living
280.4040	Hospice Residence Operational Requirements

AUTHORITY: Implementing and authorized by the Hospice Program Licensing Act [210 ILCS 60].

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SOURCE: Adopted at 2 Ill. Reg. 31, P. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, P. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, P. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, P. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, P. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 467, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10003, effective July 15, 1996; Part repealed and new Part adopted at 22 Ill. Reg. 10625, effective June 1, 1998; emergency amendment at 23 Ill. Reg. _____, effective June 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

SUBPART A: LICENSURE

Section 280.1000 Definitions

Act - the Hospice Program Licensing Act [210 ILCS 60].

Bereavement - the period of time during which the hospice patient's family experiences and adjusts to the death of the hospice patient.
 (Section 3(a) of the Act)

Counselor - a person who has earned at a minimum a bachelor's degree in counseling, psychology, or social work from an accredited college or university and who has one year of counseling experience in a health care setting; or a religious professional (clergy, religious or theologically trained lay person) who has a combination of documented formal training in pastoral counseling and supervised counseling experience in a health care or clinical setting. The total of academic and supervised work experience must equal at least five years. Any person employed as a "counselor" in an Illinois Licensed Hospice Program prior to September 1, 1985 may continue to serve in that capacity at that agency only, even though he or she may not meet the qualifications for "counselor" as set forth in this Part.

Department - the Illinois Department of Public Health. (Section 3(b) of the Act)

Director - the Director of the Illinois Department of Public Health or designee. (Section 3(c) of the Act)

Full Hospice - a coordinated program of home and inpatient care

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providing directly, or through agreement, palliative and supportive medical, nursing and other services to terminally ill patients and their families" (Section 3(d) of the Act). In this Part, the use of the phrase "full hospice" applies only to full hospice programs. The use of "volunteer hospice" applies only to volunteer hospice programs. The use of "hospice" or "hospice programs" applies to both full hospice programs and volunteer hospice programs.

Geographic Service Areas - the counties, cities, census track, etc., that the hospice identifies in the license application as required in Section 280.102(b)(11) of this Part.

Governing Body - the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a hospice program and establishes policies concerning its operation and the welfare of the individuals it serves.

Home Health Agency - an agency licensed under the Home Health Licensing Act [210 ILCS 55].

Hospice Aide - a person who provides assistance with meals, dressing, movement, bathing or other personal needs or maintenance. Hospice aides must meet the requirements for Home Health Aides in 77 Ill. Adm. Code 245.70 and 245.72 or Nursing Assistants in 77 Ill. Adm. Code 300.660 and 300.661.

Hospice Care Team - an interdisciplinary working unit composed of but not limited to a physician, a nurse, a social worker, a pastoral or other counselor, and trained volunteers. (Section 3(e) of the Act)

Hospice Patient - a terminally ill person receiving hospice services. (Section 3(f) of the Act)

Hospice Patient's Family - a hospice patient's immediate family consisting of a spouse, sibling, child, parent, significant other and those individuals designated as such by the patient for the purposes of the Act. (Section 3(g) of the Act)

Hospice Residence - a home, apartment building, or similar building providing living quarters:

that is owned or operated by a person licensed to operate as a full hospice; and

at which hospice services are provided to facility residents.

A building that is licensed under the Hospital Licensing Act or the Nursing Home Care Act is not a hospice residence. (Section 3(g-1) of

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the Act)

Hospice Service Plan - a plan detailing the specific hospice services offered by a full or volunteer hospice, and the administrative and direct care personnel responsible for those services. The plan shall include but not be limited to those items specified in Section 280.2000 of this Part. (Section 3(j) of the Act)

Hospice Services - palliative and supportive care provided to a hospice patient and his or her family to meet the special need arising out of the physical, emotional, spiritual and social stresses which are experienced during the final stages of illness and during dying and bereavement. (Section 3(h) of the Act)

Hospital - a location licensed under the Hospital Licensing Act [210 ILCS 85].

Long-Term Care Facility - a location licensed under the Nursing Home Care Act [210 ILCS 45].

Multiple Hospice Location - a location or site from which the hospice program provides services within a portion of the total geographic area served by the hospice program. The multiple hospice location is a part of a hospice and is located separately and is not a part of the administration of the hospice and services for the hospice. It is unnecessary for a multiple hospice location to be under the same ownership as a hospice license.

Not-for-Profit Agency - any hospice program that is operated by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes.

Nurse - a registered nurse or a licensed practical nurse as defined in the Illinois Nursing and Advanced Practice Nursing Act of 1987 [215 ILCS 63].

Palliative Care - treatment to provide for the reduction or abatement of pain and other troubling symptoms, rather than treatment aimed at investigation and intervention for the purpose of cure or inappropriate prolongation of life. (Section 3(i) of the Act)

Patient's Representative - an individual who has been authorized under the Health Care Surrogate Act [755 ILCS 40] to terminate medical care or to elect or revoke the election of hospice care on behalf of a terminally ill individual who is mentally or physically incapacitated.

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This may include a legal guardian.

Physician - any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Research or Experimental Programs - use of patients receiving services in the systematic study, observation, or evaluation of factors related to the prevention, diagnosis, treatment, and understanding of an illness. This involves all behavioral and medical experimental research that involves human beings as experimental subjects.

Significant Others - friends and associates who provide physical, emotional, spiritual or financial support to the patient.

Social Worker - a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20] and has one year of social work experience in a health care setting. An exception to the one-year experience requirement may be allowed upon approval by the Department of Public Health. The Department's decision to grant an exception will be based on, but not be limited to, the hospice's efforts to employ a social worker who meets this requirement.

Staff - full-time employees of a hospice, individuals working under contractual agreements, and volunteers.

Terminally Ill - a medical prognosis by a physician that a patient has an anticipated life expectancy of 6 months or less. (Section 3(k) of the Act)

Volunteer - a person who offers his or her services to a hospice without compensation. Reimbursement for a volunteer's expenses in providing hospice service shall not be considered compensation. (Section 3(l) of the Act)

Volunteer Hospice - a program which provides hospice services to patients regardless of their ability to pay, with emphasis on the utilization of volunteers to provide services, under the administration of a not-for-profit agency. This does not prohibit the employment of staff. (Section 3(m) of the Act) In this part, the use of the phrase "full hospice" applies only to full hospice programs. The use of "volunteer hospice" applies only to volunteer hospice programs. The use of "hospice" or "hospice programs" applies to both full hospice programs and volunteer hospice programs.

Workstation - an office provided for an employee's convenience and not identified in advertising or used for providing hospice services.

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(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 280.1020 Licensure Procedures

- a) The Department shall issue a hospice license only to a licensed home health agency, hospital, nursing home (long-term care facility) or not-for-profit agency. (Section 4(c) of the Act)
- b) An application for an initial license or a renewal license to operate as a full or volunteer hospice shall be in writing on forms provided by the Department. (Section 5 of the Act) The application shall be made under oath and shall contain the following information:
 - 1) The name, address, and telephone number of the hospice program location.
 - 2) The type of hospice, i.e., volunteer or full hospice. If the program is a volunteer hospice, a listing of provided services.
 - 3) If multiple hospice locations/workstations are used, the address and phone number of the central office and the address and phone number of each multiple hospice location/workstation.
 - 4) If the hospice program is not a not-for-profit agency, the type of primary license, i.e., hospital, long-term care facility, or home health agency, held by the full hospice.
 - 5) A statement of ownership in accordance with Section 1 of this Part.
 - 6) The name and address of the registered agent or other person authorized to receive Service of Process for the hospice. The facility will be operated.
 - 7) The name of the person under whose management or supervision the hospice will be operated.
 - 8) A listing of professional staff including their name, title, license or registration number, whether they are full or part time, and whether they are paid or volunteer employees.
 - 9) Number of volunteers and (approximate) total combined volunteer hours of care and service per week.
 - 10) Source of income.
 - 11) A designation of the proposed geographic area to be served by the hospice.
- 12) Hospice census report for the fiscal year (for renewals only).
- 13) A listing of outside contractors.
- 14) A copy of the annual hospice service plan.
- 15) A copy of the current annual budget and financial audit for the current fiscal year.
- 16) If the central office is used by patients and the public, a certification from the local fire authority or State Fire Marshal that the location meets fire and safety ordinances and laws.

- c) An application for licensure as a full hospice shall be accompanied by a fee of \$100. An application for a volunteer hospice shall be accompanied by a fee of \$25.
- d) Upon receipt and review of a complete application for licensure, the

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Department shall conduct an inspection to determine compliance with the Act and this Part.

e) If the hospice program is found to be in substantial compliance with the Act and this Part, the Department shall issue a license for a period of one year.

1) The license shall not be transferable; it is issued to the licensee and for the specific location; and

2) The license shall become automatically void and shall be returned to the Department if a full hospice's hospital, long-term care facility or home health agency license is revoked, nonrenewed, relinquished, denied, forfeited or suspended.

f) An application for license renewal shall be filed with the Department 60 days prior to the expiration of the license, on forms provided by the Department.

1) The renewal application shall comply with the requirements of subsections (a), (b)(1)-(7) and (11), and (c) of this Section.

2) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act (5 ILCS 100/10-65), licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

3) Upon receipt and review of a complete application for license renewal, the Department may conduct a survey. The Department's decision to conduct a survey shall be based on, but not be limited to, compliance with changes in key personnel; complaints and the engagement of the licensee since the last survey. The Department shall renew the license in accordance with subsection (e) of this Section.

g) The licensee shall report changes in the information on the application to the Department within ten days after the change. The following changes need not be reported: number of volunteers and total hours; sources of income for the fiscal year; hospice census report numbers; staff changes for other than program supervisors.

h) The hospice program license shall be displayed in a conspicuous place inside the hospice program office. (Section 4(e) of the Act)

i) The license shall be valid only for the hospice program, persons and location named in the application and shall not be assignable. This subsection does not prohibit the use of workstations throughout the geographic service areas.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART B: HOSPICE SERVICES

Section 280.2000 Hospice Service Plan

Each hospice program shall develop an annual hospice service plan detailing the

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specific hospice services offered, and the administrative and direct care personnel responsible for those services. The hospice service plan shall include but not be limited to:

a) Identification of the person or persons administratively responsible for the program, and the affiliation if any of such person or persons with a licensed home health agency, hospital or nursing home.

b) The estimated average monthly patient census.

c) The proposed geographic area the hospice will serve.

d) A listing of those hospice services provided directly by the hospice, and those hospice services provided indirectly through a contractual agreement.

e) The names and qualifications of those persons or entities under contract to provide indirect hospice services.

f) The name and qualifications of those persons providing direct hospice services, with the exception of volunteers.

g) A description of how the hospice plans to utilize volunteers in the provision of hospice services.

h) A description of the program's clinical record-keeping system for the licensed hospice program location and any multiple hospice locations. (Section 3(j) of the Act)

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 280.2010 Hospice Services

a) The hospice care team will be responsible for ensuring that all services are provided in accordance with the patient care plan. Services will be provided directly by the hospice or through written contracts with other providers.

b) Each volunteer hospice shall provide at least Nursing Services or Social Services and one of the other hospice services defined in subsection (c) of this Section. Each volunteer hospice shall make available a list of referrals for other care services not provided directly or by arrangement by the hospice program. The volunteer hospice shall educate these service providers on hospice philosophy.

c) Each full hospice shall provide all of the following hospice services:

1) Nursing Services - Nursing services are responsible for developing and implementing the diagnostic, therapeutic, and rehabilitative plan as prescribed by the patient's physician. The nursing staff shall provide care in the patient's private home environment, whether his own home or the home of family or friends; observe symptoms and reactions; and meet the nursing care needs of the terminally ill. A registered nurse must perform the home care assessment. Nursing services must be provided under the supervision of a registered nurse.

2) Social Services - Social services shall be made available to the patient/family. An evaluation of the social needs, such as

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environment, religious background, financial needs, psychosocial needs, family, special activities, and psychological needs shall be conducted. Social services shall be delivered by a social worker.

- 3) Pastoral/Counseling Services - The hospice program shall provide, at a minimum, one pastoral care person or other counselor. Pastoral/counseling services shall be made available to the patient and family. The patient's religious beliefs and practices shall be accommodated either by the hospice or with an outside source. The hospice program shall not impose the dictates of any value or belief system on its patients. (Section 8(g) of the Act)

- 4) Bereavement Services and Counseling - Each hospice shall provide bereavement counseling and services to the families of hospice patients to the extent desired by the family. Bereavement services shall be coordinated with the family's clergy, if any, as well as with other community resources judged by the hospice care team to be useful to the family.

- 5) Dietary Services - The hospice program shall perform a dietary evaluation of the patient. This evaluation must be reviewed by the hospice care team. Consultation by a dietitian shall be available to the patient as determined necessary by the hospice care team.

- 6) Intake of hospice services shall be with the licensed hospice program location and not be done independently by multiple hospice locations.

- 7) A multiple hospice location, as an extension of the full hospice program, may not offer services that are different from those offered by the licensed hospice program. The activities and patient care shall be integrated into the program of the fully licensed hospice, including medical and interdisciplinary team review.

- 8) A multiple hospice location found to be operating semi-autonomously from the licensed hospice program shall be required to be independently licensed.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 280.2030 Policies and Procedures

The hospice shall have written policies and procedures governing all services provided by the hospice, which shall be formulated with the involvement of the administrator and representatives of the governing body. The policies shall be available to the staff, patients, patients' families, and the public. These written policies shall be followed in operating the hospice and shall be reviewed annually and revised as necessary. These policies shall include a written statement:

- a) of philosophy, objectives and goals the hospice is striving to achieve;

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- b) of the hospice services provided and the type of hospice license required;
- c) of the relationship of the hospice to the families of its patients;
- d) concerning admission, transfer, and discharge of patients (see Section 280.2010(d));

- e) concerning community participation and input, if any; and
- f) concerning the planning, evaluation and quality assurance process.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART C: INPATIENT CARE

Section 280.4010 Licensure of Hospice Residences

- a) The number of licensed hospice residences shall not exceed 12. (Section 9(c)(9) of the Act)

- b) An applicant shall submit a hospice residence license certificate licensure application on forms provided by the Department. The application shall be made under oath and shall contain the following information:

- 1) All information required by Section 280.1020(b)(1)-(16); this Part;

- 2) For buildings owned by the full hospice, the net address of the building, number, occupancy and the percent of direct or indirect financial interest of any person having a direct or indirect interest of five percent or more in the facility that owns the building or proposed building, for leased buildings, the name, address and telephone number; and

- 3) Proposed staffing;

- 4) Documentation of a needs assessment and cost analysis of the facility; and

- 5) Documentation of approval by the Governing Body of the applying licensed hospice program to proceed with application, commitment to expend necessary funds for application and completion of the project, and assignment of responsibility for moving forward with the application and implementation.

- c) An application for licensure as a hospice residence shall be accompanied by a fee of \$500. Complete application for licensure, the Department shall review of license certificates to applicants who meet the minimum of review points required in Section 280.1415 of this Part. Further inspection to determine compliance with the Act and Part 280.4010 will be issued to applicants in the following geographic areas, in the order in which completed applications are received by the Department:

- 1) Four hospice residences located in counties with a population of

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700,000 or more;

- 2) Four hospice residences located in counties with a population of 200,000 or less than 700,000; and
- 3) Four hospice residences located in counties with a population of less than 200,000.

e) A license certificate shall be valid for one year from the date of issuance and may be renewed by the Department for an additional year, for a total of two years. Renewal of the license certificate for a second year will be based on, but not limited to, submittal of the following information:

- 1) Documentation of the obligation of funds for the applicant residence project by the hospice residence organization;
- 2) Letting of contracts for construction, purchase or renovation of physical space to be licensed as a hospice residence;
- 3) Architectural or construction certificates and the percentage of completion of hospice residence project; and
- 4) For buildings owned by the full hospice, the name, address, telephone, hospital, occupation and percentage of direct or indirect financial interest of five percent or more in the legal entity that owns the building or proposed building; for leased buildings, the name, address and telephone numbers.

f) By the end of the second year, any license certificate not converted to a full license shall be null and void.

g) The Department shall issue available license certificates to the next complete, geographically appropriate applicant, in the order received by the Department.

h) Upon receipt of the completed application and notification by the hospice residence applicant that the facility is complete and ready for licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.

i) If the hospice residence is found to be in substantial compliance with the Act and this Part, the Department shall issue a license that expires on the same date as the full or volunteer hospice program license.

- 1) The license shall not be transferable; it is issued to the licensee and for the specific location; and
- 2) The license shall become automatically void and shall be returned to the Department if a hospice residence's full or volunteer license is revoked, nonrenewed, relinquished, denied, forfeited, or suspended.

j) An application for license renewal shall be filed with the Department 60 days prior to the expiration of the license, on forms provided by the Department.

k) The renewal application shall comply with the requirements of subsections (b) and (c) of this Section.

l) A letter from the Office of the State Fire Marshal shall accompany the application certifying that the hospice residence physical plant meets the provisions of Section 280.4060 of this

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Part.

3) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act (5 ILCS 100/10-65), licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

4) Upon receipt and review of a complete application for license renewal, the Department shall conduct a survey. The Department shall renew the license in accordance with subsection (i) of this Section.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 280.4015 Hospice Residence Application and Approval Review Criteria

a) Beginning on June 1, 1999, applications received for a hospice residence license shall be deemed complete upon receipt by the Department. Due to the limited number of available licenses, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process. The application as submitted to the Department shall serve as the basis for all standard and prioritization evaluation.

b) The Department will review applications and award license certificates to applicants as applications are received.

c) A minimum of 40 points is required for an applicant to be eligible for issuance of a license certificate. Review points will be awarded as follows:

1) Proposed Residence Location/Facility - 10 points
The proposal shall be evaluated for compliance with the following definition: "Hospice Residence" means a home, apartment building, or similar building providing living quarters:

- A) That is owned or operated by a person licensed to operate as a full hospice; and
- B) At which hospice services are provided to facility residents.

A building that is licensed under the Hospital Licensing Act or the Nursing Home Care Act is not a hospice residence. (Section 31q-1) of the Act

2) Application Completeness - 10 points

All required information for application shall be contained in the application submission, including, but not limited to, appropriate signatures, attestations, oaths, dates and fees.

3) Documentation of completed Needs Assessment and Cost Analysis - 10 points

The application shall document that an assessment of the need for the hospice residence services and an analysis of the costs involved in the establishment, licensing and maintenance of such

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a facility have been conducted and reviewed for the proposed application. The documentation submitted shall demonstrate the criteria used and results of the assessments.

- 4) Documentation of approval for application by the applicant hospice's Governing Body - 10 points
The application shall document that the proposed residence application has been thoroughly reviewed, discussed and approved by the Governing Body of the licensed hospice program applying for the residence license. "Approval" is defined as an official motion by the Board to proceed with the application; commitment by the organization to expend the necessary funds for application and completion of the project; and assignment of responsibility for moving forward with the application and implementation of the project.

(Source: Added at 23 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Hospital Licensing Requirements

- 2) Code Citation: 77 Ill. Adm. Code 250

- 3) Section Numbers: Proposed Action:

250.160	Amendment
250.1075	New Section
250.1220	Amendment
250.1240	Amendment
250.1250	Amendment
250.1260	Amendment
250.1280	Amendment
250.1290	Amendment
250.1320	Amendment
250.2140	Amendment
250.2470	Amendment

- 4) Statutory Authority: Hospital Licensing Act (210 ILCS 85)

- 5) A Complete Description of the Subjects and Issues Involved:

The rules in Part 250 establish licensure requirements for hospitals in Illinois. In Section 250.160, incorporated and referenced materials are being updated, including the National Fire Protection Association (NFPA) Fire Safety Code, American Society for Testing and Materials (ASTM) standards, and American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE) standards.

Section 250.1075 (Use of Restraints) is being added to require hospitals to establish written policies addressing the use of restraints. Minimum provisions for the use of restraints are included in the rule.

The majority of the amendments are in Subpart J: Surgical and Recovery Room Services. In Section 250.1220 (Surgery Staff), the supervisory nurse of direct patient care will be required to be knowledgeable in invasive and diagnostic procedures. Section 250.1240 (Surgical Privileges), and Section 250.1250 (Surgical Privileges) are being amended to state that "[p]olicies and procedures shall identify which surgical procedures necessitate a second hospital-credentialed physician to assist in the surgical procedure." Two new subsections are being added in Section 250.1250 (Surgical Privileges): subsection (b) defines an emergency surgical case; subsection (c) provides for a waiver, by the physician, of requirements regarding preoperative assessment of the patient and informed consent in the event that an emergency case is declared. Amendments to Section 250.1260 (Operating Room Register and Records) allow an operating room log or register to be created by electronic means. The medical record of the patient will be required to be available in the operating suite and post-anesthesia area. An operative report describing techniques and

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findings shall be written or dictated immediately following surgery and signed by the surgeon as soon after transcription as possible. Operating suite equipment requirements are amended in Section 250.1280. In Section 250.1290, requirements for policies and procedures concerning safety are amended. Requirements for postoperative recovery facilities are amended in Section 250.1320, including the addition of requirements for a secure area at the drug distribution station, a dictating area, and a soiled utility area.

Section 250.2140 (Pharmacy and Therapeutics Committee) is being amended to clarify language concerning incident reports.

Section 250.2470 (Structural) is being amended to clarify language concerning fire resistive construction.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the notice in the *Illinois Register*.

- 6) Will this Rulemaking Replace an Emergency Rule Currently in Effect? No
- 7) Does this Rulemaking Contain an Automatic Repeal Date? No
- 8) Does this Rulemaking Contain Any Incorporations By Reference? Yes
- 9) Are there any other Proposed Amendments Pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State Mandate.
- 11) Time, Place, and Manner in which Interested Persons May Comment on this Rulemaking: Interested persons may present their comments concerning these rules by writing within 45 days after this issue of the *Illinois Register* to:

Ms. Gail M. DeVito, Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
217/782-2043
rules@dph.state.il.us

These rules may have an impact on small businesses. In accordance with Sections 1-75 and 5-30 of the Illinois Administrative Procedure Act, any small business may present their comments in writing to Gail M. DeVito at

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the above address.

Any small business (as defined in Section 1-75 of the Illinois Administrative Procedure Act) commenting on these rules shall indicate their status as such, in writing, in their comments.

12) Initial Regulatory Flexibility Analysis:

- A) Type of Small Businesses: Small Municipalities and Not-for-Profit Corporations Affected: hospitals
- B) Reporting, Bookkeeping or Other Procedures Required for Compliance: none
- C) Types of Professional Skills Necessary for Compliance: Professional medical and administrative
- 13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agenda because: the need for the rulemaking was not apparent when the regulatory agenda was compiled.

The full text of the Proposed Amendments begins on the next page:

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250.940	Job descriptions
250.950	Nursing committees
250.960	Specialized nursing services
250.970	Nursing Care Plans
250.980	Nursing Records and Reports
250.990	Unusual Incidents
250.1000	Meetings
250.1000	Education Programs
250.1010	Licensure
250.1020	Policies and Procedures
250.1030	Patient Care Units
250.1040	Equipment for Bedside Care
250.1050	Drug Services on Patient Unit
250.1060	Care of Patients
250.1070	Use of Restraints
250.1075	Admission Procedures Affecting Care
250.1080	Sterilization and Processing of Supplies
250.1090	Infection Control
250.1100	

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section	
250.1210	Surgery
250.1220	Policies & Procedures
250.1230	Surgical Privileges
250.1240	Surgical Emergency Care
250.1250	Operating Room Register and Records
250.1260	Surgical Patients
250.1270	Equipment
250.1280	Safety
250.1290	Operating Room
250.1300	Visitors in Operating Room
250.1305	Cleaning of Operating Room
250.1310	Postoperative Recovery Facilities
250.1320	

SUBPART K: ANESTHESIA SERVICES

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ILLUSTRATION A Seismic Zone Map

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Codes and Standards (Repealed)

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Standards (Repealed)

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Addresses of Sources (Repealed)

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Measurements Essential for Level I, II, III Hospitals

TABLE A

Sound Transmission Limitations in General Hospitals

TABLE B

Filter Efficiencies for Central Ventilation and Air Conditioning

TABLE C

Systems in General Hospitals (Repealed)

TABLE D

General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)

TABLE E

Piping Locations for Oxygen, Vacuum and Medical Compressed Air

TABLE F

General Pressure Relationships and Ventilation of Certain Hospital Areas

TABLE G

Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of

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150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 3218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 134232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired on May 29, 1996; amended at 20 Ill. Reg. 3334, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL

Section 250.160 Incorporated and Referenced Materials

- a) The following regulations and standards are incorporated in this Part:
- 1) Private and professional association standards:
 - A) American Society for Testing and Materials (ASTM), Standard No. B90 (1996 1995); Recommended Practice for Laboratory Measurement of Airborne Sound Transmission Loss of Building Floors and Walls, which may be obtained from the American Society for Testing and Materials, 1916 Race Street, Philadelphia, Pennsylvania 19103. [fSee Section 250.2420-1]
 - B) American Society of Heating, Refrigerating, and Air

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Conditioning Engineers (ASHRAE), which may be obtained from the National Association of American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, GA 30329; [fSee Section 250.2480-1]

- i) ASHRAE Handbook of Fundamentals (1997 1991);
- ii) ASHRAE Handbook for HVAC Systems and Equipment (1996) Equipment Volume (1994);
- iii) ASHRAE Handbook for Systems (1994);
- iv) ASHRAE Handbook for Applications (1995 1992).

e) the Compressed Gas Association (CGA)—Famphlet—P-27 (1997)—Standard for Medical Surgical Vacuum Systems—in Hospitals—which may be obtained from the Compressed Gas Association; 2135—Jefferson—Davis—Highway—Arlington Virginia 22208—fSee Section 250.2490-1

f) National Fire Protection Association (NFPA), Standard No. 101 (1997 1994): Life Safety Code [fSee Sections 250.2420, 250.2450, 250.2460, and 250.2490] and 250.2490] and the following standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02269:

- i) No. 10 (1994 1998): Installation of Portable Fire Extinguishers; [fSee Section 250.1980-1]
- ii) No. 13 (1996 1994): Sprinkler Systems; [fSee Sections 250.2490 and 250.2670-1]
- iii) No. 13A (1997)—Sprinkler Systems Maintenance—fSee Sections 250.2490 and 250.2670-1
- iv) No. 14 (1996 1998): Standpipe and Hose Systems; [fSee Sections 250.2490 and 250.2670-1]
- v) No. 23 (1995): Inspections, Testing and Maintenance of Water Based Fire Protection Systems;
- v) No. 30 (1996 1999): Flammable and Combustible Liquids Code; [fSee Section 250.1980-1]
- vi) No. 45 (1996): Fire Protection for Laboratories Using Chemicals Code;
- vii) No. 54 (1996): Fuel Gas Code;
- viii) No. 70 (1996) 1999: National Electrical Code; [fSee Sections 250.2440 and 250.2500-1]
- ix) No. 72 (1996): Fire Alarm Code;
- x) No. 80 (1995 1998): Standard for Fire Doors and Windows; [fSee Section 250.2450-1]
- xi) No. 92 (1994 1998): Incinerators and Rubbish Handling; [fSee Section 250.2440-1]
- xii) No. 90A (1996 1998): Installation of Air Conditioning and Ventilating Systems; [fSee Sections 250.2480 and 250.2660-1]
- xiii) No. 96 (1997 1993): Vapor Removal Cooking Equipment; [fSee Section 250.2660-1]

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- xiv)†† No. 99 (1996 †993): Health Care Facilities Code;†
 (†See Sections 250.1410, 250.1980, 250.1910, 250.2460,
 250.2480, 250.2490 and 250.2660.)†
- xv)†† No. 101-M (1992): Alternative Approaches to Life
 Safety;† (†See Section 250.2620.)†
- xvi) No. 110 (1996): Emergency and Standby Power Systems
 Code;†
- xvii)†† No. 220 (1995 †993): Standard Types of Building
 Construction;† (†See Sections 250.2470 and 250.2620.)†
- xviii) No. 221 (1994): Fireworks and Fire Barrier Walls
 Code;†
- xix) No. 241 (1996): Safeguarding Construction and
 Alterations Demolition Operations Code;†
- xx)†† No. 255 and 258 (1996 †996): Standard Method of
 Test of Surface Burning Characteristics of Building
 Material;† (†See Section 250.2480.)†
- xxi)† No. 701 (1995 †999): Fire Tests for
 Flame-Resistant Textiles and Films;† (†See Sections
 250.2460 and 250.2650.)†
- D)† American Academy of Pediatrics and American College of
 Obstetricians and Gynecologists, Guidelines for Perinatal
 Care, Third Edition (1992), which may be obtained from the
 American Academy of Pediatrics, 141 Northwest Point
 Boulevard Road, Elk Grove Village, Illinois 60009
 60669-9957. (†See Section 250.1820.)†
- E)† American College of Obstetricians and Gynecologists,
 Guidelines for Women's Healthcare (January 1996) and
 Guidelines for Perinatal Care, Fourth Edition Standards-for
 Obstetric-Synecologic-Services-Sevenh-Edition-(†989)-and
 Manual-of-Standards-†9857, which may be obtained from the
 American College of Obstetricians and Gynecologists, 409
 12th Street, SW, Washington, D.C. 20024-1288. (†See Section
 250.1820.)†
- F)† National Council on Radiation Protection and Measurements
 (NCRP), Report No.49: Structural Shielding Design and
 Evaluation for Medical Use of X-rays and Gamma Rays of
 Energies up to 10 MeV (1976) and NCRP Report No.102:
 Medical X-Ray, Electron Beam and Gamma-Ray Protection for
 Energies Up to 50 MeV (Equipment Design, Performance and
 Use) (1989), which may be obtained from the National Council
 on Radiation Protection and Measurements, 7910 Woodmont
 Ave., Suite 800, Bethesda, Maryland 20814-3095. (†See
 Sections 250.2440 and 250.2450.)†
- G) †† DOP Penetration Test Method MTL STD No.282 (1995
 †976): Filter Units, Protective Clothing, Gas-mask
 Components and Related Products: Performance Test Methods,
 which may be obtained from Naval Publications and Form
 Center, 5601 Tabor Avenue, Philadelphia, Pennsylvania 19120.

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- (†See Section 250.2480.)†
- H)† National Association of Plumbing-Heating-Cooling
 Contractors (PHCC), National Standard Plumbing Code (1957),
 which may be obtained from the National Association of
 Plumbing-Heating-Cooling Contractors, 1016 20th Street,
 N.W., Washington, D.C. 20036. (†See Section 250.2420.)†
- I)† Building Officials Code Administrators (BOCA)
 International, Eleventh Edition, "The BOCA National Building
 Code (1995 †993)", which may be obtained from BOCA, Inc.,
 4051 Blossmoor Road, Country Club Hills, IL 60477-5795.
 (†See Section 250.2420.)†
- J)† American Standards Association, Inc., Specifications for
 Making Buildings and Facilities Accessible to, and Usable
 by, the Physically Handicapped (1968)†, which may be
 obtained from the American Standards Association, Inc., East
 40th Street, New York, New York 10016. (†See Section
 250.2420.)†
- K)† Underwriters Laboratories, Inc. (UL), Publication No. 181
 (1994 †974): Air Ducts,†, which may be obtained from
 Underwriters Laboratories, Inc., 333 Pfingsten Road,
 Northbrook, Illinois 60062 897-East-Ohio-Street--Chicago
 Illinois-60611. (†See Section 250.2420.)†
- L)† Accreditation Council for Graduate Medical
 Education of Accredited Residencies in Graduate Medical
 Education (1997 †999), which may be obtained from the
 Accreditation Council for Graduate Medical Education, 515
 North State Street, Suite 200, 595-North-Bearborn--Street-
 Chicago, Illinois 60610. (†See Section 250.315.)†
- 2) Federal Government Publications:
- A) Department of Health and Human Services, United States Public
 Health Service, Centers for Disease Control, "CDC Guidelines for
 Isolation Precautions in Hospitals", January 1996 and "CDC
 Guidelines for Infection Control in Hospital Personnel", July
 1993,†, which may be obtained from National Technical Information
 Service (NTIS), U.S. Department of Commerce, 5285 Port Royal
 Road, Springfield, Virginia 22161. (†See Section 250.1100.)†
- B) National-Bureau-of-Standards--Technical-Note-789--Appendix
 H--Test--Method--for--Measuring--the--Smoke--Generation
 Characteristics-of-Solid-Materials--(†982)--which--may--be
 obtained--from--American-National-Standards-Institute--1430
 Broadway--New-York-NY--10019--†See-Section-250-2420--†
- b) All incorporations by reference of federal regulations and the
 standards of nationally recognized organizations refer to the
 regulations and standards on the date specified and do not include any
 additions or deletions subsequent to the date specified.
- c) The following statutes and State regulations are referenced in this
 Part:
- 1) State of Illinois statutes:

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- A) Hospital Licensing Act [210 ILCS 85].
 - B) Illinois Health Facilities Planning Act [20 ILCS 3960 996f].
 - C) Medical Practice Act of 1987 [225 ILCS 60].
 - D) Pediatric Medical Practice Act of 1987 [225 ILCS 100].
 - E) Pharmacy Practice Act of 1987 [225 ILCS 85].
 - F) Physicians Assistant Practice Act of 1987 [225 ILCS 95].
 - G) Illinois Clinical Laboratory Act [210 ILCS 25].
 - H) Radiation Installation Instructions Act [420 ILCS 30 219 166S-99f].
 - I) X-ray Retention Act [210 ILCS 90].
 - J) Safety Glazing Materials Act [430 ILCS 60].
 - K) Mental Health and Developmental Disabilities Code [405 ILCS 5].
 - L) ~~the Illinois~~ Nursing and Advanced Practice Nursing Act [225 ILCS 65].
- 2) State of Illinois rules regulations:
- A) Department of Public Health, Illinois Plumbing Code [77 Ill. Adm. Code 890].
 - B) Department of Public Health, Sexual Assault Survivors Emergency Treatment Code [77 Ill. Adm. Code 545].
 - C) Department of Public Health, Control of Communicable Diseases Code [77 Ill. Adm. Code 690].
 - D) Department of Public Health, Food Service Sanitation Code [77 Ill. Adm. Code 750].
 - E) Department of Public Health, Public Area Sanitary Practice Code for Drinking Water--Sewage--Disposal--and--Restroom Facilities [77 Ill. Adm. Code 895].
 - F) Capital Development Board, Illinois Accessibility Code [71 Ill. Adm. Code 400].
 - G) State Fire Marshal, Boiler and Pressure Vessel Safety [41 Ill. Adm. Code 120].
 - H) State Fire Marshal, Fire Prevention and Safety [41 Ill. Adm. Code 100].
 - I) Department of Nuclear Safety, Standards for Protection Against Radiation [32 Ill. Adm. Code 340].
 - J) Department of Nuclear Safety, Use of X-rays k-Ray in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine [32 Ill. Adm. Code 360].

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section 250.1075 Use of Restraints

Established written policy(ies) shall address the use of restraints in the hospital and shall include, at a minimum, the following provisions:

- a). Restraints shall be used only to prevent the individual from injuring him/herself or others, or to prevent serious disruption of the provision of care to the patient or others.
- b). Restraints shall be used only upon the written order of a physician. In an emergency, other appropriate individuals, as specifically designated in policies and procedures, may order use of a restraint for a period not to exceed one hour. The clinical justification for use of a restraint will be addressed in the medical record on each use of the restraint. Orders shall be for specific episodes rather than unspecified future use (PRN).
- c). Restraint use shall be time limited by policy, not to exceed 24 hours without review and re-initiation of a physician order.
- d). The required proximity to the nurses' station on the floor who are placed in restraints shall be stated.
- e). Methods and frequency of observation of patients, including maximum length of time between observations, shall be stated.
- f). When hard restraints are employed, all nursing and patient care staff assigned to that unit must have a restraint key in their possession for the duration of their shift.
- (Source: Added at 23 Ill. Reg. _____, effective _____)
- SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES
- on 250.1220 Surgery Staff
- a) A current roster of physicians, dentists, and podiatrists shall be maintained in the surgical suite and available to the surgical nursing **surgery-supervisory-nurses** and medical staff.
- b) The supervisory nurse of direct patient care shall be a registered professional nurse, knowledgeable in invasive and diagnostic as well as operating room procedures.

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section 250.1220 Surgery Staff

- A current roster of physicians, dentists, and podiatrists shall be maintained in the surgical suite and available to the surgical nursing surgery-supervisory-nurses and medical staff.
- The supervisory nurse of direct patient care shall be a registered professional nurse, knowledgeable in invasive and diagnostic as well as operating room procedures.

Section 250.1240 Surgical Privileges

- a) Surgical privileges shall be delineated for each member of the medical staff (i.e., a Doctor of Medicine, M.D.; Doctor of Osteopathy, D.O.; Doctor of Podiatric Medicine, D.P.M.; or Doctor of Dental Surgery, D.D.S.) who has been granted surgical privileges in accordance with the competence of each such member of the medical staff. A file of ~~these members~~ specifying the surgical privileges of each of these members shall be available kept in the ~~confidential-files~~ of the operating room supervisor and in the files of the Hospital Administration Department.

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- b) Policies and procedures shall identify which surgical procedures necessitate a second hospital-credentialed physician in any procedure with unusual hazard-to-life; there shall be present--and--scrubbed--as first--assistance--a physician-designated-by-the-credentials-committee as-being-qualified to assist in the surgical procedure major--or hazardous--surgery--this-is-to-be-identified-in-the-current-department policy-and-procedure-manual.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 250.1250 Surgical Emergency Care

- a) An where--shall-be--an on-call schedule of physicians shall be established and posted at each patient care unit or other area where surgical patients are admitted or the communications center of the hospital to ensure that there is 24-hour emergency care or post-operative follow-up care, or both--available.
- b) An emergency surgical case is defined as any case in which, in the opinion of the attending physician or surgeon, the risk of a delay endangers the patient's life, limb or organs. The declaration of an emergency shall be appropriately noted in the patient's chart.
- c) In the event of the declaration of an emergency case, any of the requirements regarding the preoperative assessment of the patient and informed consents may be waived by the attending physician or surgeon and noted in the medical record.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 250.1260 Operating Room Register and Records

- a) An operating room log or register, including those created by electronic means, shall be provided and maintained on a current basis. If the register is created by electronic means, then safeguards to protect the integrity and confidentiality of these records must be in place. The operating room log or register shall contain the date of the operation, name and number of patient, names of surgeons and surgical assistants, name of anesthetist, type of anesthesia given and pre- and post-operative diagnosis, type of surgical procedure, operating room number and the presence or absence of complications in surgery.
- b) The medical staff shall establish procedures to ensure that preoperative and postoperative medical records are completed in a timely and accurate manner. A properly executed consent form for the proposed surgical or diagnostic procedure, including a consent for anesthesia services, operation shall be in the patient's chart prior to surgery. Except in an emergency, there shall be a complete history

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and physical work-up shall be recorded in the chart of every patient prior to surgery, whether the surgery is major or minor;--if--such has been dictated or transcribed, but not yet recorded in the patient's chart, there shall be a statement to that effect and an admission note by the physician in the chart--EXCEPTION:--Any of the pre-operative procedures may be waived--if--in--the--judgment--of--the--attending physician--or--surgeon--the--risk--of--delay--endangers--the--patient's--life.

c) The medical record of the patient shall be available in the operating suite and post-anesthesia area.

d) An operative report describing techniques and findings shall be written or dictated immediately following surgery and signed by the surgeon as soon after transcription as possible.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 250.1280 Equipment

- a) The operating room suite is to be equipped with the appropriate and necessary equipment and instruments for the surgical or diagnostic procedures performed, and accessory services shall be so located that traffic in and out can be and is controlled and there is no through suites--call-in-system--cardiac-monitor--resuscitator--defibrillator--aspirator--thoracotomy--set--and--tracheotomy--set--and--such--other instruments--or--equipment--available--for--life--saving.
- b) The surgical suite shall have appropriate resuscitation equipment immediately available at all times.
- c) A dedicated emergency call system must be present in each operating room for the purpose of alerting operating suite personnel to an emergency or life-saving situation.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 250.1290 Safety

- a) Policies and procedures shall be established concerning the safety and welfare of patients treated in the surgical suite, and safety training shall be provided to personnel. The bylaws of the staff shall require that--all--pertinent--precautions--for--the--safety--and--welfare--of--patients--treated--in--the--surgical--department--are--taken--it--shall--be--the--responsibility--of--the--administrator--with--the--advice--of--the--surgical--staff--to--furnish--a--sufficient--quantity--of--modern--surgical--and--emergency--equipment--to--provide--safe--and--aseptic--treatment--of--all surgical--patients.
- b) Policies and procedures shall be established where--hospital--staff establish--necessary--rules--and--regulations--for--the--control, storage,

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and safe use of combustible anesthetics, oxygen and other medicinal gases. Refer: Section 250.1410(c).

- c) Suitable facilities must be provided for the safe and convenient preparation of drugs and medications medication, including ample light, running water, sufficient work area, refrigeration and a secure and locked cabinet area for the storage of schedule control-of drugs.
- d) Policies and procedures shall be established addressing principles of sterility and asepsis in the surgical suite. Safety-training shall be provided to personnel to ensure safety for patient and staff.
- e) Rigid adherence to accepted standards of sterility and asepsis is mandatory in the Surgical Department.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

Section 250.1320 Postoperative Recovery Facilities

- a) Provision and use of postoperative recovery facilities
- 1) Postoperative recovery facilities shall be provided by all hospitals in which surgery is performed. They shall be in a separate room where patients who have undergone surgical procedures can be immediately observed and receive specialized care by selected and trained personnel, and where, when necessary, prompt emergency care can be initiated.
- 2) The services of the postoperative recovery room may be utilized for postpartum if the delivery room or place of delivery is in proximity to the postoperative recovery room. Only clean (non-infected or non-infectious) postpartum patients may be admitted to the postoperative recovery room and may after appropriate observation be returned to the maternity department.

b) Personnel

- 1) Physician
- A physician shall be responsible for the conduct of the recovery room, for the training of recovery room personnel, and for the establishment of admission and discharge policies and procedures.

2) Nurse

- A registered nurse who has education and experience in postoperative recovery room care shall supervise all personnel performing nursing service functions.
- B) A registered nurse shall be in attendance at all times when patients are in the recovery room.
- C) There shall be sufficient nursing personnel to provide the specialized care required for the post surgical patient. It is recommended that a ratio of one nursing personnel to three patients be maintained at all times.
- D) Nursing personnel shall be assigned permanently to the postoperative recovery room when patients are present.

c) Practices for operation of postoperative recovery rooms

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- 1) Only clean surgical cases shall be admitted to the postoperative recovery room.
- 2) Contaminated cases shall be returned to the isolation room or a private room. When a separate isolation facility is within or adjacent to the postoperative recovery room, contaminated cases may be admitted to it.
- 3) A member of the medical staff shall provide initial orders for the care of each patient upon admission.
- 4) A member of the medical staff shall be responsible for the patient's discharge from the recovery room.
- 5) Anesthetized patients shall be constantly attended. Side rails shall be attached to movable carts and beds and raised above mattress level when occupied by anesthetized patients. Gribbs shall be provided for the anesthetized or post surgical child.
- 6) Written policies and procedures, which are reviewed regularly and revised as necessary, shall be established.
- 7) A complete orientation program and continuing in-service education program shall be provided for all personnel assigned to the recovery room.
- 8) Personnel with communicable diseases shall be excluded from the recovery room.
- 9) No visitors shall be permitted in the postoperative recovery room, except in the case where a hospital has adopted a policy, approved through the Governing Board, that allows a parent or guardian, or other individual selected by a child's parent or guardian, of a child 12 years of age or younger to be present with the child in recovering from a surgical procedure. Before allowing individuals to be present in the recovery area with their child, the hospital shall have a policy in place that includes at least the following:

- A) Written consent of both the parent, guardian or other individual and the physician performing the surgery;
- B) Notation in the patient's medical record of the presence of additional persons in the postoperative recovery room during recovery of the child from a surgical procedure;
- C) Application of safeguards against the introduction of individual or other hazards by the parent, guardian or other individual including orientation, education and training of the person prior to the performance of the procedure; this shall include, at minimum, specifics regarding the procedure and recovery, what can be expected, and basic infection control practices expected of the person;
- D) Provision of at least one additional staff person in the recovery room assigned to oversee, supervise and assist the parent, guardian or other designated individual for the period of time the parent, guardian or designated individual is present;
- E) Provision of safeguards to ensure the privacy of other

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patients who may be recovering from surgical procedures, which may include separate rooms or some other type of separation for recovery of children who would have a parent present. Whatever method is chosen must allow for constant attention of anesthetized patients by recovery room staff; and

F) If at any point during the recovery of the minor patient it is determined by the recovery room personnel that the parent, guardian or other individual poses a threat to the safe recovery of the patient, he or she may require the parent, guardian or other individual to leave the recovery room.

d) Drugs, supplies and equipment
Drugs, supplies and equipment shall be immediately and continually accessible in the unit for postoperative care including emergencies. These shall include cardiac-respiratory resuscitation materials.

e) ~~The post-operative recovery facility (rooms) for post-anesthesia recovery of surgical and obstetrical patients shall be provided and shall contain and provide for a drug distribution station, including a secure area, adequate handwashing facilities, charting and dictating area, soiled utility area facilities, clinical sink with backup flushing device, and adequate storage space for supplies and equipment. Additional recovery spaces may be necessary to accommodate surgical outpatients for more detailed information see Subpart F of this Part.~~

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section 250.2140 Pharmacy and Therapeutics Committee

a) In accordance with the bylaws, rules and regulations of the medical staff, an interdisciplinary committee acceptable to the Board shall be appointed to assure the responsibility for the functions of the service.

b) The committee shall meet not less than quarterly and record minutes of their meetings, which shall reflect their activities.

c) The functions of the committee shall include but not be limited to the following:

- 1) ~~assist in the formation of~~ formulate rules and regulations relating to the selection, evaluation, distribution, and administration of drugs and medicines in the hospital;
- 2) establish control and reporting procedures for the use of investigational (experimental, trial use) drugs and medicines;
- 3) promote educational programs on drugs and drug therapy for the

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medical and nursing staffs and other appropriate personnel; develop and update the Service Policy and Procedure Manual, the Hospital Formulary or Drug List;

5) review and act on recommendations, drug usage reports, medication error and/or other or incident reports, storage, distribution and administration of drugs;

6) to develop policies and procedures (which shall be approved by the Medical Staff and Board) to provide for the administration of identified drugs and medicines by qualified professional persons who are authorized by law to administer such drugs and medicines in the course of practicing their professions; and

7) establish the guidelines for the education, in-service training and supervision of all personnel administering drugs and medications.

(Source: Amended at 23 Ill. Reg. _____, effective _____)

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section 250.2470 Structural

a) In addition to compliance with the Standards set forth in this Subpart, all applicable local or State building codes and regulations must be observed.

b) The buildings and all parts thereof shall be of sufficient strength to support all dead, live, and lateral loads without exceeding the working stresses permitted for the materials of their construction in generally accepted good engineering practice.

c) Special provision shall be made for machines or apparatus loads that which would cause a greater load than the specified minimum live load.

d) Consideration shall be given to structural members and connections of structures that which may be subject to earthquakes or tornadoes. (See Section 250.2450(z).) Floor areas where partition locations are subject to change shall be designed to support for the partition, a uniformly distributed load of 25 p.s.f.

e) Construction. Construction shall be in accordance with the requirements of National Fire Protection Association Standard No. 101 (1997-1994), "Life Safety Code," and the minimum requirements contained in this subsection (e) herein.

- 1) Foundations shall rest on natural solid ground and shall be carried to a depth of not less than one foot below the estimated frost line or shall rest on leveled rock or load-bearing piles or caissons when solid ground is not encountered. Footings, piers, and foundation walls shall be adequately protected against deterioration from the action of ground water. Test borings shall be taken to establish proper soil-bearing values for the soil at the building site.

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- 2) Assumed live loads shall be in accordance with the BOCA National Building Code.
- 3) All hospitals **over-one-story-in-height** shall be of fire resistive construction. The fire resistance rating of the structural members shall be as established by NFPA 220 (1995 #992), "Standard Types of Building Construction," for Type I (332) construction.
- 4) Any additions to existing hospitals that are one story in height and of protected non-combustible construction may be constructed of protected non-combustible construction. The resistance rating of the structural members shall be as established by NFPA Standard No. 220 (1995 #992), "Standard Types of Building Construction" for Type II (222).

(Source: Amended at 23 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Department of Children and Family Services Scholarship Program
- 2) Code of Citation: 89 Ill. Adm. Code 312
- 3) Section Numbers:
 312.10 New Adopted Action:
 312.20 New
 312.30 New
 312.40 New
 312.50 New
 312.60 New
 312.70 New
 312.80 New
 312.90 New
 312.100 New
- 4) Statutory Authority: Section 8 of the Child Care Act of 1969 [20 ILCS 505/8].

- 5) Effective Date of Rules: June 1, 1999

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rule contain incorporations by reference? No

- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: December 11, 1998 at 22 Ill. Reg. 21140

- 10) Has JCPR issued a Statement of Objections to this rule? No

- 11) Differences between proposal and final version:

In Section 312.20, a definition was added for "FAFSA" which means Free Application for Federal Student Aid.

In Section, 312.30, a statement was added that "DCFS will attempt to notify youth age 14 or older in each of the eligible population categories of the scholarship program."

In Section 312.40, subsection (a), the wording was changed from "a current year graduate of" to "16 to 19 years of age and possess a diploma from". Also in subsection (a), the word "recipients" was deleted and replaced with "by the end of the current school year". In subsection (d), "State

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Scholarship" was changed to "Student Assistance".

In Section 312.60, the Department deleted the number "24" and added "the number of scholarships awarded annually to each group will be proportionate to the total number of youth in each group during the previous fiscal year".

In Section 312.80, subsection (c), "reapply for" was changed to "file a FAFSA form and apply for other forms of". Subsection (d) was deleted.

In Section 312.90, subsection (b), "may not exceed" was changed to "are equal to". Also in subsection (b), "\$250" was deleted and replaced with "the regular foster care" and "board payment for youth of that age group" was inserted after "monthly". In subsection (e), "academic school year" was changed to "second semester or third quarter".

Grammatical changes were made based on the suggestions of JCAR.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule Amendments: The purpose of this Part is to describe eligibility requirements, the application and selection process, and financial provisions of the Department of Children and Family Services Scholarship Program.

16) Information and questions regarding these adopted rules shall be directed to:

Ms. Sue Howell
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498
Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: ORPINFO@pop.state.il.us

The full text of the adopted rule begins on the next page.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERY

PART 312

DEPARTMENT OF CHILDREN AND FAMILY SERVICES SCHOLARSHIP PROGRAM

Section	Purpose
312.10	Definitions
312.20	Description
312.30	Eligibility Requirements
312.40	Application
312.50	Selection
312.60	Service Planning
312.70	Monitoring
312.80	Financial Provision
312.90	Discharge from the Scholarship Program

AUTHORITY: Implementing and authorized by Section 8 of the Children and Family Services Act [20 ILCS 505/8].

SOURCE: Old Part adopted by emergency rulemaking at 20 Ill. Reg. 924, effective December 29, 1995, for a maximum of 150 days; emergency expired May 27, 1996; new Part adopted at 23 Ill. Reg. ~~6784-7~~ 6784-7

JUN - 1 1999

Section 312.10 Purpose

The purpose of this Part is to describe eligibility requirements, the application and selection process, and financial provisions of the Department of Children and Family Services Scholarship Program.

Section 312.20 Definitions

"Accredited high school", as used in this Part, means any high school that has met all compliance rules and regulations as required by the State of Illinois.

"ACT" means American College Test.

"Adopted child" means a child for whom the Department was legally responsible immediately before the adoption was finalized.

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody or guardianship via court order or children whose parent has signed an

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adoptive surrender or voluntary placement agreement with the Department.

"Department" means the Department of Children and Family Services.

"FAFSA" means Free Application for Federal Student Aid.

"GED" means General Educational Development diploma.

"SAT" means Scholastic Aptitude Test.

"Subsidized Guardianship Program" means a child welfare demonstration project that offers a financial subsidy to relative care or licensed foster home caregivers that are willing to assume private guardianship of children who are eligible for the program. The Subsidized Guardianship Program is further defined in 89 Ill. Adm. Code 302.405, Subsidized Guardianship.

Section 312.30 Description

The DCFS Scholarship Program provides a maximum of 48 scholarships each year, four of which are awarded to children of veterans. Scholarship recipients receive four consecutive years of supplemental services and maintenance payments that will include annual tuition and fee waivers if the student attends an Illinois State college or university. Scholarships do not cover room, board, or dormitory fees. Students may attend other colleges or universities, if scholarships are awarded them, and receive the same maintenance benefits as those students attending State-supported colleges or universities. DCFS will attempt to notify youth age 14 or older in each of the eligible population categories of the scholarship program.

Section 312.40 Eligibility Requirements

Applicants must meet the following criteria in order to be considered for a DCFS scholarship:

- the applicant must be 16 to 19 years of age and possess a diploma from an accredited high school or a GED by the end of the current school year;
- the Department must have court-ordered legal responsibility for the applicant, or the Department must have had legal responsibility for the applicant immediately prior to the adoption being finalized, or the applicant must be in the Subsidized Guardianship Program;
- if applicable, the permanency goal for the applicant must be independence;
- the applicant must have applied for appropriate scholarships and benefits (e.g., Illinois Student Assistance Commission Grant, Basic Educational Opportunity Grant, Supplemental Educational Grant, Work Study and National Defense Student Loans, Social Security, and

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- Veterans Benefits); and
- the applicant must be able to provide approximately one third of his/her basic living costs from earned income, unearned income, other scholarships, or savings.

Section 312.50 Application

- The application package will contain the following:
 - Scholarship Program Student Application;
 - social history and statement of qualifying characteristics;
 - transcript of high school grades or copy of GED;
 - ACT or SAT test scores;
 - three letters of recommendation from persons unrelated to the applicant; and
 - Federal financial aid application form (copy of first page).
- Other supporting documentation may be attached to the application at the discretion of the applicant.
- Applications are due to the Scholarship Coordinator by the second Monday in March.

Section 312.60 Selection

The Scholarship Awards Committee, which is comprised of the Scholarship Coordinator and one representative appointed annually by the Regional Administrator from each of the Department's six regions, shall select scholarship recipients on the basis of the student's eligibility, scholastic record and aptitude, community and extracurricular activities, interest in higher education, and social history. Each area of consideration will have equal value, and a composite score (one through ten), supplemented with comments, will be assigned to the application by each committee member. Applications will be assigned into two groups, Department wards and adoption/subsidized guardianship youth. The highest scoring applicants from each group will be awarded scholarships. The number of scholarships awarded annually to each group will be proportionate to the total number of youth in each group during the previous fiscal year.

Section 312.70 Service Planning

A service plan will be developed with each scholarship recipient for whom the Department has legal responsibility. At a minimum, plans will be reviewed every six months or at the beginning of each academic quarter or semester.

Section 312.80 Monitoring

Students are required to provide the Department with the following information in order to maintain their scholarships:

- Transcripts
- Transcripts must be submitted at the end of each academic semester or

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- quarter. Students must maintain a "C" grade point average.
- b) Academic Credit Hours
Students must carry a minimum of 12 credit hours each semester or quarter.
- c) Financial Aid
Students are required to file a FAFSA form and apply for other forms of financial aid annually.

Section 312.90 Financial Provision

- a) Tuition and Fee Waiver
If the student attends an Illinois State college or university and does not have a tuition or fee scholarship from another source, the Scholarship Coordinator will request a waiver of tuition and fees.
- b) Direct Payment to Student
Grant payments are made directly to the student by mail and are equal to the regular foster care monthly board payment for youth of that age group.
- c) Initial Expenses
Initial expenses related to setting up a household may be partially subsidized by the Department (maximum \$200).
- d) Start-Up Grant
Students may apply for a start-up grant of \$250.
- e) Regular Payments
Regular monthly grant payments will become effective the first day the student is at school and terminate at the end of the second semester or third quarter, unless the student attends summer school.
- f) Summer Payments
Grant payments may continue through the summer months if the student is enrolled in summer school and maintaining an academic load of six credit hours.
- g) Medical and Dental Payments
Youth who are the legal responsibility of the Department are eligible for a Medicaid card while attending college.
- h) Fee and Book Payments
When it is documented that the student does not have sufficient resources to purchase required text books and/or pay student fees, and the Department has legal responsibility for the student, the Department may make these payments.
- i) Guardianship Termination or Marriage
Termination of guardianship or marriage followed by guardianship termination does not terminate a four-year scholarship.
- j) Change of Address
Students must keep their address current with the Department in order to receive grant payments.

Section 312.100 Discharge from the Scholarship Program

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Students will be discharged from the scholarship program for the following reasons:

- a) completion of a bachelor degree program or four years in the scholarship program;
- b) failure to enroll in school;
- c) failure to maintain a "C" grade point average;
- d) failure to maintain an academic load of 12 credit hours each semester or quarter;
- e) withdrawal from school without good cause; or
- f) dismissal from school due to disciplinary reasons.

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NOTICE OF ADOPTED RULES

1) Heading of the Part: Public Notice of Change in License

2) Code of Citation: 89 Ill. Adm. Code 376

3) Section Numbers: Adopted Action:

376.10 New

376.20 New

376.30 New

4) Statutory Authority: Section 4(c) of the Child Care Act of 1969 [225 ILCS 10/4(c)].

5) Effective Date of Rules: May 30, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: November 20, 1998 at 22 Ill. Reg. 19972

10) Has JCAR issued a Statement of Objections to this rule? No

11) Difference(s) between proposal and final version: Grammatical changes were made based on the suggestions of JCAR. In subsection (a) of Section 376.30, a cross-reference of "in accordance with 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes) and 89 Ill. Adm. Code 404 (Licensing Standards for Childcare Institutions and Maternity Centers)" was added after "approval".

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rule replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rule: The purpose of this Part is to prescribe the process to be used to notify the general community when a licensed child care institution, group home and/or maternity center proposes to change its program or services.

16) Information and questions regarding these adopted rules shall be directed to:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

Ms. Sue Howell

Office of Child and Family Policy

Department of Children and Family Services

406 E. Monroe, Station #65

Springfield, Illinois 62703-1498

(217) 524-1983

TDD: (217) 524-3715

E-Mail: ORPINFO@pop.state.il.us

The full text of the adopted rule begins on the next page:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED RULES

TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER d: LICENSING ADMINISTRATION

PART 376

PUBLIC NOTICE OF CHANGE IN LICENSE

Section

376.10 Purpose

376.20 Definitions

376.30 Public Notice and Department Approval

AUTHORITY: Implementing and authorized by Section 4(c) of the Child Care Act of 1969 [225 ILCS 10/4(c)].

SOURCE: Old Part repealed at 17 Ill. Reg. 17915, effective October 5, 1993; new Part 376 added and adopted at 23 Ill. Reg. ~~6791~~ **16791** effective ~~10/1/1993~~ **MAY 30 1993**.

Section 376.10 Purpose

- a) The purpose of this Part is to prescribe the process to be used to notify the general community when a child care institution, maternity center, and/or group home proposes to change its program or services.
- b) This Part applies to child care institutions, maternity centers, and group homes licensed by the Department as defined in the Child Care Act of 1969.

Section 376.20 Definitions

"Child" means any person under 18 years of age. For purposes of admission to and residence in child care and maternity centers, the term also means any person under 21 years of age who is referred by a parent or guardian, including an agency having legal responsibility for the person pursuant to the Juvenile Court Act or the Juvenile Court Act of 1987. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

"Child care institution" means a child care facility where more than 7 children are received and maintained for the purpose of providing them with care or training or both. The term "child care institution" includes residential schools, primarily serving ambulatory handicapped children, and those operating a full calendar year, but does not include:

- any State-operated institution for child care established by legislative action;

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- any juvenile detention or shelter care home established and operated by any county or child protection district established under the "Child Protection Act";
- any institution, home, place or facility operating under a license pursuant to the Nursing Home Care Act [210 ILCS 45];
- any bona fide boarding school in which children are primarily taught branches of education corresponding to those taught in public schools, grades one through 12, or taught in public elementary schools, high schools or both elementary and high schools, and which operates on a regular academic school year basis; or
- any facility licensed as a "group home" as defined in the Child Care Act of 1969. (Section 2.06 of the Child Care Act of 1969 [225 ILCS 10/2.06])

"Department" means the Illinois Department of Children and Family Services. (Section 2.02 of the Child Care Act of 1969 [225 ILCS 10/2.02])

"Group home" means a child care facility which provides care for no more than 10 children placed by and under the supervision of a licensed child welfare agency with these homes being owned or rented, staffed, maintained and otherwise operated by the agency. (Section 2.16 of the Child Care Act of 1969 [225 ILCS 10/2.16])

"Maternity center" means a facility in which any person, agency or corporation, other than one licensed as a foster family home or group home under the Child Care Act of 1969, receives, treats or cares for one or more unmed pregnant girls under 18 years of age, except that the term does not include any facility licensed under the Hospital Licensing Act [210 ILCS 80]. (Section 2.07 of the Child Care Act of 1969 [225 ILCS 10/2.07])

"Public Notice" means notification to the public in a newspaper of general publication in the county or municipality in which the applicant facility is located.

"Newspaper" means a newspaper as defined in the Notices by Publication Act [715 ILCS 5/5].

Section 376.30 Public Notice and Department Approval

- a) A child care institution, maternity center or group home shall request in writing Department approval in accordance with 89 Ill. Adm. Code 403 (Licensing Standards for Group Homes) and 89 Ill. Adm. Code 404

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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(licensing Standards for Childcare Institutions and Maternity Centers) to change the following:

- 1) *the range of care or services offered at the facility,*
- 2) *the age or type of children served, or*
- 3) *the area within the facility used by the children.* [225 ILCS 10/4]
- b) Within ten days after receipt of the request to make any of the changes specified in subsection (a) above, the Department shall place a notice of the Proposed changes in a newspaper of general circulation in the county or municipality in which the facility is located. The notice shall be published for three consecutive weeks and shall be printed in the total circulation of each edition on the date of publication of the newspaper in which the notice is published as required by the Notice by Publication Act [715 ILCS 5/31].
- c) The Department will accept public comments up to five working days after the last publication date of the notice. Such comments shall be submitted to:

Deputy Director, Division of Operations and Community Services
Department of Children and Family Services
100 West Randolph, 6-200
Chicago, IL 60601

- d) No changes in any of the conditions in subsection (a) of this Section shall be made prior to the public notification required by this Part and approval by the Department.
- e) The Department will notify the licensee of approval or disapproval of the proposed changes no later than ten working days after the last publication date of the notice.

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Campaign Finance

- 2) Code Citation: 26 Ill Adm Code 100

- 3) Section Numbers: Adopted Action:
100.10 Amendment
100.120 Amendment
100.130 New
100.140 New
100.150 New
100.160 New
100.170 New

- 4) Statutory Authority: Implementing 10 ILCS 5/9-1 and authorized by Sections 1A-8(9) and 9-15(3) of the Illinois Election Code [10 ILCS 5/9-1, 1A-8(9) and 9-15(3)]

- 5) Effective Date of Rulemaking: May 24, 1999

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain incorporations by reference? No

- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal Published in Illinois Register: January 15, 1999; 23 Ill Reg 623

- 10) Has JCAR issued a Statement of Objections to these amendments? No

- 11) Differences between proposal and final version: Technical changes suggested by the Joint Committee on Administrative Rules have been incorporated. Additionally:

Section 100.10

Remained unchanged from the 1st Notice version, which was based upon the published first notice text.

Section 100.120

References to "designated agent" were deleted and the term "public official" was added. The test was revised to state that in-kind contributions are deemed to be received 2 days after receipt of the certificate required by the statute. Proposed subsection (d) was deleted in its entirety.

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Section 100.130

Reference to 501(c)(3) corporate status was deleted, and subparagraph numbering adjusted accordingly. Proposed subsection (d) was deleted in its entirety.

Section 100.140

Property leased by the State of Illinois is now included in the definition of "state property". The Michael J. Howlett Building and the William G. Stratton Office Building were included in the non-exhaustive list of state property.

Section 100.150

Remained unchanged from 1st Notice version, which was based upon the published first notice text.

Section 100.160

Deletes language defining "clear and conspicuous". Extends the last date by which the committee must make a good-faith effort to obtain omitted information respecting a contribution until the close of the reporting period in which the contribution or loan was received.

Section 100.170

Changes subsection (b) to allow a 30-day grace period after the formation of a political committee to determine a sponsoring entity exists for the committee. Adds language to clarify the requirements to determine if sponsoring entity status exists during each semi-annual reporting period after establishment. Clarifies the point that sponsoring entity status is determined by the gross receipts of the committee during each semi-annual reporting period.

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: The amendments bring the State Board of Elections' rules implementing statutory requirements governing political committees required to register with the State Board of Elections under Article 9 of the Election Code into accord with the provisions of amendments to the Election Code effective January 1, 1999.

STATE BOARD OF ELECTIONS

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16) Information and questions regarding these adopted amendments shall be directed to:

A.L. Zimmer, General Counsel
State Board of Elections
James R. Thompson Center
100 W. Randolph Street, Suite 14-100
Chicago, Illinois 60601
312/814-6440

The full text of the adopted amendments begins on the next page:

STATE BOARD OF ELECTIONS

NOTICE OF ADOPTED AMENDMENTS

TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 100

THE CAMPAIGN FINANCING ACT

Section

- 100.10 Definitions
- 100.20 Official Forms
- 100.30 Forwarding of Documents (Repealed)
- 100.40 Vacancies in Office - Custody of Records
- 100.50 Multiple Filings by State and Local Committees
- 100.60 Filing Option for a Federal Political Committee
- 100.70 Reports of Contributions and Expenditures
- 100.80 Report Forms
- 100.90 Provision Circumvention
- 100.100 Proof of Identification; Application for Inspection and Copying
- 100.110 Loans by One Political Committee to Another
- 100.120 Receipt of Campaign Contributions
- 100.130 Reporting by Certain Not-for-Profit Organizations
- 100.140 Prohibited Contributions
- 100.150 Electronic Filing of Reports
- 100.160 Good Faith
- 100.170 Sponsoring Entity

AUTHORITY: Implementing Article 9 of the Election Code [10 ILCS 5/Art. 9] and authorized by Section 9-15(3) of the Election Code [10 ILCS 5/9-15(3)].

SOURCE: Amended at 5 Ill. Reg. 1337, effective January 30, 1981; amended at 5 Ill. Reg. 12115, effective October 26, 1981; codified at 6 Ill. Reg. 7211; amended at 7 Ill. Reg. 225, effective December 16, 1982; amended at 14 Ill. Reg. 10824, effective June 22, 1990; amended at 16 Ill. Reg. 6982, effective April 21, 1992; amended at 18 Ill. Reg. 14707, effective September 9, 1994; amended at 21 Ill. Reg. 10044, effective July 21, 1997; amended by emergency rulemaking at 23 Ill. Reg. 719, effective January 4, 1999, IMAY 24, 1999 of 150 days; amended at 23 Ill. Reg. 6496, effective _____.

Section 100.10 Definitions

- a) Anything of Value
 - 1) Reference: This Part interprets or applies Section 9-1.12, 9-14 and 9-15 of the Election Code [10 ILCS 5/9-1.12, 9-14, 9-15].
 - 2) The term "anything of value", as used in Sections 9-14, 9-15 and 9-1.12 of the Act, includes all things, services or goods regardless of whether they may be valued in monetary terms according to ascertainable market value.
 - 3) "Anything of value" which does not have an ascertainable market value may be reported by describing the thing, services or goods

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NOTICE OF ADOPTED AMENDMENTS

contributed, however nothing in this subsection (a)(3) relieves a committee or a contributor of the duty to provide an accurate an assessment of value as possible.

- 4) For purposes of reporting campaign receipts and expenses, income from investments shall be included as receipts during the reporting period they are actually received. The gross purchase price of each investment shall be reported as an expenditure at time of purchase. Net proceeds from the sale of an investment shall be reported as a receipt. During the period investments are held they shall be identified by name and quantity of security or instrument on each semi-annual report during the period. The value of each instrument as of the day the reporting period closes shall be included for each asset held as an investment.

5.4) In addition to the items expressly excluded in the Act, the term "anything of value" shall not be deemed to include:

- A) Any unreimbursed payments for travel or living expenses related to travel made by an individual who volunteers services on behalf of a candidate or political committee--to the extent that--the cumulative value of the payments does not exceed an aggregate of \$156 with respect to an annual reporting period;
- B) Any news story, commentary, endorsement or editorial of any broadcasting station, newspaper, magazine or other periodical publication;
- C) Any regular publication by a membership organization, labor union or corporation to its officers, employees, members or stockholders, so long as the membership organization or corporation is not organized primarily for the purpose of influencing nomination for election, or election, of any candidate, or supporting or opposing any question or questions of public policy. However, publications of an extraordinary or special nature to support or oppose a candidate or candidates or a question or questions of public policy would constitute a campaign contribution or expenditure;
- D) The occasional use of real property for the purpose of conveying information to officers, employees, members or stockholders and their families of a person or whoever as defined in Section 9-1.6 of the Illinois Campaign Financing Act and as defined in Section 100.10(b) of these Rules and Regulations, including but not limited to the use of such premises for the purpose of a candidate communicating directly with such officers, employees, members or stockholders and their families;
- E) Unrealized appreciation or loss of value of investments during the period they are held.

b) Assets

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- 1) Reference: This definition of asset interprets or applies to Section 9-5 of the Election Code.
- 2) An asset is an item of property, other than cash or services, of whatever kind, tangible or intangible, that has either a fair market or salvage value in excess of \$50.

c) b) Candidate

- 1) Reference: This Part interprets or applies Section 9-1.3 of the Election Code.
- 2) "Candidate" as that term is defined in Section 9-1.3 of the Act [10 ILCS 5/9-1.3] shall include, but not by way of limitation:
- A person who circulates or authorizes the circulation of nominating petitions on his behalf for public office;
 - An individual who receives contributions or makes expenditures or gives consent for any other person to receive or make expenditures with a view to bringing about his nomination for election or re-election to any office;
 - Any judicial incumbent who qualifies for retention.

d) e) Filing

To constitute a "filing" as used in the Act and in these Rules, the Statement, Report or document must be in apparent and substantial conformity with the requirements of the Act. "Apparent and substantial conformity" requires that the filing contain the following:

- The signature of the person making the filing;
 - Completion of all applicable sections of the report; and
 - Attachment of all appropriate schedules.
- Inadvertent error or omission of a de minimus nature in the completion of report, statement or document shall not be deemed to a "willful failure to file or a willful filing of false or incomplete information" pursuant to Section 9-26 of the Act.

e) d) Statement of Organization

- 1) Reference: This provision interprets Section 9-3 of the Election Code [10 ILCS 5/9-3].
- 2) A committee officer must, in filling out the Form D-1, use the name which appears on his or her birth certificate, baptismal record, voter's registration card, certificate of candidacy or nominating petition, or any other name by which the officer is commonly known in the community in which the officer resides. Aliases created for the purpose of filing under Article 9 of the Election Code may not be used.

f) e) Person or Whoever

- 1) Reference: This Part interprets or applies Section 9-1.6 of the Election Code.
- 2) The terms "other organizations" and "groups of persons" as defined in Section 9-1.6 of the Act shall include, but not by way of limitation: all for-profit and not-for-profit corporations; labor unions; trade associations or other such groups; religious organizations; fraternal societies; luncheon and dinner

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g) f) Political Committee

- 1) Reference: This Part interprets or applies Section 9-1.9 of the Election Code.
- 2) A person or whoever as defined in the Illinois Campaign Financing Act, Section 9-1.6 [10 ILCS 5/9-1.6] and as defined in Section 100.10 (b) of this Part does not qualify as a political committee pursuant to the Illinois Campaign Financing Act by simply making a contribution from his or her personal income or profits regardless of the amount of the donations.
- 3) If a person or whoever solicits or receives funds for political purposes or acts as a conduit for political funds, he or she would, in fact, become a political committee and have to comply with all provisions of the Illinois Campaign Financing Act.

(Source: amended 23 Ill. Reg. 679 - effective MAY 24 1995)

Section 100.120 Receipt of Campaign Contributions

- a) Every person or political committee which makes any expenditure in excess of \$50 on behalf of a candidate or political committee, or contributes goods or services in excess of \$50 directly to a committee or indirectly to another on behalf of a committee, ~~in excess of \$20.00~~ shall certify to notify the treasurer of the political committee within five business days after making the contribution. The certificate ~~notification~~ shall include the name and address of the person or political committee making the expenditure; the name and address of the entity to whom the expenditure was made; the amount of ascertainable market value of the expenditure; ~~if-in-kind~~ a description of the goods or services; and the date the expenditure was made. The ascertainable market value of goods and services assigned by the donor in the certificate, or if there is no certificate, by the recipient committee, shall be prima facie correct unless rebutted by clear and convincing evidence.
- b) An entity defined by Section 9-1.6 of the Election Code or a political committee as defined by Sections 9-1.7, 9-1.8 or 9-1.9 of the Election Code shall acknowledge, to the donor, receipt of any such notice it receives conforming to the requirements of subsection (a) of this Section. No committee shall retain an in-kind contribution it has knowingly received unless it also receives the certificate required by subsection (a) of this Section unless return of the contribution is impossible. If the donor of the expenditure does not comply with subsection (a) of this Section and if the in-kind contribution cannot be returned, the beneficiary political committee shall nonetheless have the responsibility to report such in-kind contributions or expenditures from the donor if it actually knows or reasonably should have known from the facts available to it that an in-kind contribution

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had been made in its behalf.

- c) A cash contribution ~~irrespective of its character~~ to a political committee is deemed to have been received on the date the contribution was actually received by the candidate, Chairman or Treasurer of the committee or the public official ~~committee~~. A contribution of goods actually received by the committee is deemed to be made on the date the goods are transferred to the possession of the recipient. A contribution of services is deemed to be made on the date the services are actually performed. An in-kind contribution of ~~expensive~~ for goods or services, possession of which is not actually obtained by the recipient committee, shall be deemed to be received 2 days after on the date the certificate notice required by subsection (a) of this Section has been received, 2 days after on the date information comes into the possession of the candidate, Chairman or Treasurer of the recipient committee or the public official from which the person receiving the information ~~committee~~ knows or should reasonably know of the in-kind contribution.

(Source: Amended at 23 Ill. Reg. 679 6 - , effective MAY 24 1999)

Section 100.130 Reporting by Certain Not-for-Profit Organizations

- a) A not-for-profit organization operating in Illinois is required to submit financial reports to the State Board of Elections if it:

- 1) is not a labor union;
- 2) is registered under the Lobbyist Registration Act, or engages any person, whether paid or not, for lobbying purposes who is registered under the Lobbyist Registration Act;
- 3) has not established a political committee; and
- 4) accepts or spends more than \$5000 per year in the aggregate on both:
 - A) supporting or opposing candidates for public office or questions of public policy that are to appear on a ballot at an election; and
 - B) influencing legislative, executive, or administrative action as defined in the Lobbyist Registration Act.

- b) Reports containing the information required by statute shall be submitted on forms designed and supplied by the State Board of Elections or upon computer-generated forms conforming to those designed by the State Board of Elections.

(Source: Added at 23 Ill. Reg. 679 6 - , effective MAY 24 1999)

Section 100.140 Prohibited Contributions

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- a) For purposes of Article 9 of the Election Code, "State property" of which the State of Illinois is the lessee, or shall include all real property in which the State of Illinois owns the fee, exclusive of highways and roads and other property, to the extent consistent with subsection (b) of this Section. State property includes, but is not limited to, the buildings, facilities and grounds of the Illinois State Capitol Building; the Old State Capitol Complex; the Michael J. Howlett Building; the Attorney General's Office; the William G. Stratton Office Building; the Supreme Court Building; the State Library; the Department of Transportation Administration Building; all in Springfield; the James R. Thompson Center and the State of Illinois Building, both in Chicago; and all State universities.
- b) Any portion of real property that would otherwise be included in the definition of State property but for the fact of its being leased or rented for the purpose of conducting a fundraising event shall not be considered State property during the time such fundraising event takes place.
- c) For purposes of Article 9 of the Election Code, "in or within 50 miles of Springfield" shall include the territory in a circle whose radius is 50 miles measured from directly beneath the center of the dome of the Illinois State Capitol Building.

(Source: Added at 23 Ill. Reg. 679 6 - , effective MAY 24 1999)

Section 100.150 Electronic Filing of Reports

- a) The State Board of Elections will make software available to committees required to report electronically under 10 ILCS 5/9-28.
- b) Once a committee exceeds the threshold that requires it to report electronically, it must continue thereafter to report electronically until it dissolves, whether or not its accumulation, receipts or expenditures fall beneath the levels set by statute for mandatory electronic filing.

(Source: Amended at 23 Ill. Reg. 679 6 - , effective MAY 24 1999)

Section 100.160 Good Faith

- a) For purposes of this Section, "contributor" includes the terms "lender" and "endorser". A committee acts in good faith under 10 ILCS 5/9-11, 9-12, 9-13, and 9-14 if:
- 1) its written solicitation for funds includes a clear written request for the name of the contributor's employer and the occupation of the contributor;
 - 2) in the event it receives a contribution lacking the name of the contributor's employer and occupation of the contributor in

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circumstances where such information is required, it makes at least one effort to obtain the missing information; and

3) In the event its request for information is unanswered, the committee includes in its report the best and most current information it may have from whatever source, including its own records and earlier reports, about the name of the contributor's employer and the occupation of the contributor.

- b) The request shall appear in a clear and conspicuous manner on any response material contained in the solicitation.
- c) An effort to obtain missing information must either be in writing or oral documented by a writing, and must be made on or before the close of the reporting period in which the contribution or loan was received. The request must clearly ask for the missing information and must contain no other language except thanks to the contributor or lender for the contribution or loan. If the request is in writing it must be accompanied by a pre-addressed return postcard or envelope.
- d) If the name of the employer of a contributor that is required to be reported under Article 9 of the Election Code is unknown at the time the contribution must be reported, a good faith effort having been made to secure such information, the contribution may be reported without the information. However, if the omitted information subsequently becomes known to the committee, the report that omits the information must be amended to add the information.

- e) For the purpose of this Section, "employer" includes all natural and non-natural persons, including but not limited to corporations, partnerships and unincorporated associations.

(Source: Added at 23 Ill. Reg. 0796, effective MAY 24 1999.)

Section 100.170 Sponsoring Entity

- a) A sponsoring entity is a person that contributes not less than 33% of the total funding of any political committee.
- b) A person contributes not less than 33% of the total funding of a committee if at any time during a semi-annual reporting period following the 30th day after the committee has filed its statement of organization 33% of the committee's gross receipts, including in-kind contributions, come from the person.
- c) Person includes natural persons, corporations, partnerships, political committees and unincorporated associations.
- d) Each political committee shall include in its name the name of its sponsoring entity.
- e) If at any time during a semi-annual reporting period a committee that has not previously identified a sponsoring entity receives 33% if its gross receipts during that semi-annual reporting period from a single person, the committee must amend its Statement of Organization to identify the sponsoring entity.

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- f) Political committees, the names of which include the name of the candidate supported by the committee, the name of an established political party as that term is used in 10 ILCS 5/Art. 7, or the name of a new political party as that term is used in 10 ILCS 5/Art. 10 satisfies the requirements of this Section without the need for further statement of sponsoring entity in the name of the committee.
- g) The name of the sponsoring entity shall be the full name of the person, and not an acronym.
- h) A committee is required to identify its sponsoring entity so long as it receives not less than 33% of its gross receipts from a single person. A committee may amend its Statement of Organization to delete the name of its sponsoring entity from its name if for two consecutive semi-annual reporting periods it fails to receive not less than 33% of its gross receipts from a single person.
- i) If at any time during a semi-annual reporting period a committee that has identified a sponsoring entity receives not less than 33% of its gross receipts from a different single person than the person identified as its sponsoring entity, it shall amend its Statement of Organization to include in its name the name of the new sponsoring entity.
- j) If a committee receives support from two or more persons, each one of which would independently of the other meet the definition of a sponsoring entity, the name of the committee shall include all such persons.

(Source: Added at 23 Ill. Reg. 0796, effective MAY 24 1999.)

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- 1) Heading of the Part Practice and Procedure
- 2) Code Citation: 26 Ill. Adm. Code 125
- 3) Section Number: Adopted Action:
125.425 Amendment
- 4) Statutory Authority: Implementing 10 ILCS 5/9-1 and authorized by Sections 1A-8(9) and 9-15(3) of the Illinois Election Code [10 ILCS 5/9-1, 1A-8(9) and 9-15(3)].
- 5) Effective Date of Amendments: May 24, 1999
- 6) Do these adopted amendments contain an automatic repeal date? No
- 7) Do these adopted amendments contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Date the Notice of proposed rules was published in the Illinois Register: January 22, 1999; 23 Ill. Reg. 829
- 10) Has JCAB issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version:

Technical changes suggested by the Joint Committee on Administrative Rules have been incorporated. Additionally:

- 1) In Section 125.425 (e)(5), based on the text first published on January 22, 1999, the words "reporting period for which the delinquent report was due" were deleted and replaced with the words "most recent semi-annual report".
- 2) In Section 125.425 (e)(6), based on the text first published on January 22, 1999, the words "reporting period for which the delinquent report was due" were deleted and replaced with the words "most recent semi-annual report".
- 3) After subparagraph (e)(6), a new subparagraph (e)(7) was added with the following text:

"If the political committee was created subsequent to the last semi-annual reporting period, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$100.00 per business day for the first violation, \$200.00 per business day for

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the second violation, and \$300.00 per business day for the third and subsequent violation to a maximum of \$5000.00, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.00."

- 12) Have all the changes agreed upon by the agency and JCAB been made as indicated in the agreement letter issued by JCAB? Yes
- 13) Will these amendments replace an emergency rule currently in effect? Yes
- 14) Are there any amendments pending on this Part? No
- 15) Summary and purpose of these amendments:

The amendments bring the State Board of Elections procedures for the imposition of monetary penalties into accord with the provisions of amendments to the Election Code effective January 1, 1999

- 16) Information and questions regarding these adopted amendments shall be directed to:

A. L. Zimmer, General Counsel
State Board of Elections
James R. Thompson Center
100 W. Randolph Street, Suite 14-100
Chicago, IL 60601

The full text of the adopted amendments begins on the next page:

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TITLE 26: ELECTIONS
CHAPTER I: STATE BOARD OF ELECTIONS

PART 125

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PURSUANT TO SECTION 9-18

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Section

125.610 Applicability
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SUBPART G: ADVISORY OPINIONS

Section

125.710 Advisory Opinions
 125.720 Reconsideration of Advisory Opinions
 125.730 Public Availability of Advisory Opinion
 125.740 Conflict Between this Part and the APA

SUBPART H: MISCELLANEOUS PROVISIONS

Section

125.810 Ex Parte Communications
 125.820 Effective Date
 125.830 Interpretation
 125.840 Severability

AUTHORITY: Implementing and authorized by Sections 1A-8(9), 9-15(3), 9-21 and 9-23 of the Election Code [10 ILCS 5/1A-8(9), 9-15(3), 9-21 and 9-23].

SOURCE: Adopted at 5 Ill. Reg. 12115, effective October 26, 1981; amended at 7 Ill. Reg. 230, effective December 16, 1982; amended at 7 Ill. Reg. 15803 and 15810, effective December 16, 1982; amended at 7 Ill. Reg. 3278; amended at 9 Ill. Reg. 4050, November 9, 1983; codified at 8 Ill. Reg. 10832, effective June 22, 1990; amended at 16 Ill. Reg. 6986, effective April 21, 1992; amended at 19 Ill. Reg. 6546, effective May 1, 1995; amended by emergency rulemaking at 23 Ill. Reg. 1122, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. ~~6547~~ 6547, effective MAY 24 1999.

SUBPART D: FINAL ORDERS

Section 125.425 Civil Penalty Assessments

- a) As used in this Section, "authorizing candidate" means any candidate who has at any time during the reporting period for the report in question or prior thereto filed with the committee an authorization in accordance with Section 9-8 of the Election Code.
- b) A report required to be filed within a specified time pursuant to

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Section 9-10 of the Election Code is delinquent if not received by the Board on or before the due date. Document(s) are deemed received by the Board as of the date date-stamped by Board staff on the document(s) submitted.

- c) If a report is not received by the Board on or before the due date, the committee is currently under stipulation; it is subject to an increasing civil penalty as set out in subsection (e) of this Section provided herein, until received by the Board.
- d) When a report required by Section 9-10 of the Election Code is delinquent, the Board will send notice of delinquency to the chairman and the treasurer of each delinquent State state, State state and local, and local political committee together with an Order assessing a civil penalty calculated in accord with subsection (e). The notice of delinquency and Order shall also be sent to any candidate listed by name on that committee's Statement of Organization. The notice of delinquency shall state that the Board has issued a civil penalty that will be final unless the committee shows cause in accord with subsection (f) why the penalty should not be assessed if a delinquent state, state and local or local political committee is currently under stipulation--such notice shall state that a fine is being assessed for each late day.
- e) Upon receipt of a delinquent campaign disclosure report--the Board shall send by certified mail to all delinquent political committees not currently under stipulation a partially completed stipulation and agreed order for signature. The Board shall file a complaint against any such political committee failing to return such properly completed stipulation within 30 days of the mailing of the stipulation or within 30 days after the political committee's acceptance of same. If a political committee is currently under stipulation, the Board will calculate and calculate the initial civil penalty for each day of delinquency as follows:

1) If its total receipts, total expenditures, and the balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000.00 or less, and if the delinquent report is not a semi-annual pre-election report, the political committee shall be assessed a fine of \$25.00 per business day for the first violation of a stipulation, \$50.00 per business day for the second violation, and \$75.00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late;

2) If its total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000.00, and if the delinquent report is not a semi-annual pre-election report, the political committee

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shall be assessed a fine of \$500-00 per business day for the first violation-of-a-~~violation~~, \$100-00 per business day for the second violation, and \$200-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late;

3) ~~4) If its total receipts, total expenditures, and balance remaining at the end of the reporting period for which the delinquent report was due are each \$5000-00 or less and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$100-00 per business day for the first violation-of-a-~~violation~~, \$200-00 per business day for the second violation, and \$300-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty for any committee shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late; or~~

4) ~~If its total receipts, total expenditures, or balance remaining at the end of the reporting period for which the delinquent report was due exceeds \$5000-00, and if the delinquent report is a pre-election report, the political committee shall be assessed a fine of \$200-00 per business day for the first violation-of-a-~~violation~~, \$400-00 per business day for the second violation, and \$600-00 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000, provided that the civil penalty shall not exceed \$500 for a first time offense involving a filing that is less than 10 days late; and~~

5) ~~If its total receipts, total expenditures, and balance remaining at the end of the most recent semi-annual report are each \$5000 or less, and if the delinquent report is an A-1 report required by Section 9-10(b)(5) of the Election Code, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000;~~

6) ~~If its total receipts, total expenditures, or balance remaining at the end of the most recent semi-annual report exceeds \$5000,~~

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and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$200 per business day for the first violation, \$400 per business day for the second violation, and \$600 per business day for the third and each subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.

7) ~~If the political committee was created subsequent to the last semi-annual reporting period, and if the delinquent report is an A-1 report, the political committee shall be assessed a fine of \$100 per business day for the first violation, \$200 per business day for the second violation, and \$300 per business day for the third and subsequent violation to a maximum of \$5000, except that if the committee is one formed for statewide office as that term is defined in Section 9-10(b) of the Election Code, the maximum shall be \$10,000.~~

2) ~~Mail--to--the--chairman--and--the--treasurer--of--the--political committee--as--well--as--to--any--candidate--listed--by--name--on--that committee's--current--Statement--of--Organization--notice--of--the--civil--penalty--assessed--against--the--political--committee--and--include--therewith:~~

A) ~~a statement of the amount of the assessed penalty;~~

B) ~~a request for hearing form;~~

C) ~~an appeal affidavit form; and~~

D) ~~a request for waiver of appearance form;~~

f) ~~In addition to the civil penalties provided for in Section 9-10(b) of the Election Code, a committee or organization required to report under the Election Code may, for violations of provisions of Article 9 of the Election Code other than delinquent filing, be assessed a civil penalty under the provisions of Section 9-23 of the Election Code, and this subsection. The Board will calculate civil penalties in accord with subsection (e). A committee that violates both Section 9-10 of the Election Code and an order of the Board may be liable for separate penalties for each violation. In cases of alleged violation of an order of the Board brought under the provisions of Section 9-23 of the Election Code, the Board will mail to each committee or organization alleged to be in violation of a Board order notice of a proposed civil penalty calculated in accord with the terms of this Part, which proposed penalty shall become effective without further proceedings unless the committee or organization receiving the notice contests the proposed civil penalty. A political committee assessed a civil penalty under Section 9-10(b) for being delinquent in filing a required report or that has received notice of a proposed civil penalty for violation of a Board order under Section 9-23 may:~~

1) ~~submit, within 10 30 days after of the mailing of the assessment notice described in subsection (e)(2) of this Section, a request for waiver of appearance and appeal affidavit in the form~~

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provided by the Board stating the reasons for requested waiver of appearance and the reasons for the late filing or violation of the Board order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Code of Civil Procedure [735 ILCS 5/1-109]; or

2) submit, within 10 36 days after of the mailing of the assessment notice described in subsection (e)(2) of this Section, a request for hearing and appeal affidavit in the form provided by the Board stating the reasons for the late filing or violation of the Board Order, as the case may be, to show why a civil penalty should not be assessed. This appeal affidavit shall either be in writing made under oath and upon penalty of perjury sworn to before a notary public or any person authorized to administer oaths or be made pursuant to Section 1-109 of the Illinois Code of Civil Procedure [735 ILCS 5/1-109]; or

3) pay, within thirty- 30 days after of the mailing of the assessment notice described in subsection (e)(2) of this Section, the civil penalty assessed. If an appeal affidavit is filed, with or without waiver of appearance, the civil penalty shall not be due until the appeal is determined by the Board.

9) If a political committee or organization required to report under the provisions of Article 9 of the Election Code subject to a civil penalty assessment for the late filing of a campaign disclosure report fails, within the time required, to submit a request for hearing and appeal affidavit, or to submit a request for waiver of appearance and appeal affidavit, or to make payment in full of the assessed civil penalty, then the Board shall proceed with efforts at collection pursuant to the Illinois State Collection Act of 1986 [30 ILCS 210]. The Board shall not hear an appeal of a civil penalty imposed for delinquent filing or the violation of a Board order if neither a request for waiver of appearance and appeal affidavit nor a request for hearing and appeal affidavit is filed within the time required.

Notwithstanding any provision herein to the contrary, the Board shall stay the enforcement of any civil penalty in cases of first time violation of a filing deadline and shall stay the enforcement of a civil penalty for the violation of a Board order where the committee organization has voluntarily entered into a stipulation admitting the violation and agreeing to the civil penalty. Such stay shall continue only so long as no subsequent violations of Article 9 of the Election Code or of Board orders occur. Violation of Article 9 of the Election Code or of Board order will cause the civil penalty otherwise stayed to become immediately due and may expose the committee or organization to further liability in accord with this Section.

1) For the purpose of this Section, second and subsequent violations are deemed to occur with reference to the time the first offense event

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occurs, not when a hearing, if any is required, concerning such first offense event is held. The Board may consider two or more allegations of violations at the same hearing, treating the first as an initial violation and the remaining as subsequent violations, imposing appropriate civil penalties for each.

h) A request for waiver of appearance and appeal affidavit in the form provided by the Board, timely filed within thirty (30) days of the mailing of the assessment notice described in subsection (e)(2) of this Section with the Board, if denied at the next meeting of the Board occurring at least seven (7) days after the receipt of said request and affidavit, will be considered at the then next following regular date time and location of said meeting. Each said request and affidavit will be considered at the then next following regular meeting upon written notice to the political committee specifying the date time and location of said meeting. Each said request and affidavit shall be received by the Board to the political committee filing same with said receipt to contain the date of receipt and the date time and location of the next regular meeting of the Board occurring at least seven (7) days after the receipt of said request and affidavit. At that following meeting, either the chairman, the treasurer or an authorizing candidate of the political committee shall be present in person. If such a representative of the political committee is not present, the appeal shall be denied.

i) A request for hearing and appeal affidavit form timely filed with the Board within thirty (30) days of the mailing of the assessment notice described in subsection (e)(2) of this Section will be considered at the next regular meeting of the Board occurring at least seven (7) days after receipt of said request and affidavit. Each said request and affidavit shall be received by the Board to the political committee filing same with said receipt to contain the date of receipt and the date time and location of the next regular meeting of the Board occurring at least seven (7) days after the receipt of said request and affidavit. If neither the chairman, the treasurer or an authorizing candidate of the political committee is present at the requested hearing, the appeal shall be denied.

j) If the political committee's appeal is: 1) denied by the Board, the Board will require that the civil penalty originally assessed be paid within thirty (30) days after the date of the hearing.

2) If the appeal is accepted by the Board, the Board will waive the civil penalty assessment provided that the Board may waive the fine only if the political committee can present documentation proving that it did not file the report in question on time. Document(s) are deemed received by the Board as of the date stamped by Board staff on the document(s) submitted.

k) Any party adversely affected by a final order of the Board may file a written motion to reconsider the order pursuant to Section 420.5-440-A timely motion for rehearing extends the period in which the respondent

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- may pay the fine unless the motion is heard and decided within the 30 day period until the motion is heard and decided. A motion for rehearing does not toll the running of the 30-day period except to the extent that it is necessary to hear and decide the motion.
- Any authorizing candidate, treasury or chairman paying an assessed civil penalty may, upon request, to the political committee be reimbursed such amount from funds of the political committee if, and when such funds become available.
- The Board shall extend the stipulation and agreed order for an additional twelve-month period, measured from the date of violation of the stipulation and agreed order, for each committee assessed a late fine.
- The civil penalty for a single violation may not exceed \$1,000.00; provided that each report which is not timely and properly filed by a political committee shall be a separate single violation.
- No provision of this or any other rule of the State Board of Elections to the contrary withstanding, the Board will abate any monetary penalty that would otherwise arise under this Section if the untimely report submitted in violation of subsection (b) of this Section arrives at the office of the State Board of Elections bearing a postmark not less than 5 days prior to the date the report is actually due in the office of the Board.

(Source: Amended at 23 Ill. Reg. 6707 =, effective MAY 24 1999)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Consignment of Licenses, Stamps and Permits
- 2) Code Citation: 17 Ill. Adm. Code 2520
- 3) Section Numbers: Adopted Action:
2520.60 New Section
- 4) Statutory Authority: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].
- 5) Effective Date of Amendments: May 20, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 19, 1999, 23 Ill. Reg. 3242
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:

2520.60(a)(3) - "it must be a" was changed to "insure that the service is".

2520.60(a)(4) - "to the customer" was added following "permit"; "or" was changed to "after" and "customer" changed to "customer's".

2520.60(a)(6) - "for" was removed.

2520.60(b) - "\$4.00" was changed to "\$4"; a comma was added following "transaction"; "onto" was changed to "on to"; and "by clarifying" was added following "confusion".

2520.60(c)(4) - "their" was changed to "the buyer's" and "they receive their" was changed to "the buyer receives the".

2520.60(c)(6) - "data base" was changed to "database".
- 12) Have all the changes agreed upon by the agency and JCAR been made as

DEPARTMENT OF NATURAL RESOURCES
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Indicated in the agreements issued by JCAR? Yes

- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This Part was amended to add a new Section on Sale of Licenses by Telephone or Electronic Transmission. This amendment will allow customers the ability to purchase licenses, stamps or permits by telephone or electronic transmission (such as the Internet).
- 16) Information and questions regarding these adopted amendments shall be directed to:
- Jack Price
Department of Natural Resources
524 S. Second Street, Room 430
Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF NATURAL RESOURCES
NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER 1: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2520
CONSENTMENT OF LICENSES, STAMPS AND PERMITS

Section	Consignment Requirements
2520.10	Issuing Licenses, Stamps and Permits
2520.20	Terms
2520.30	Credit to Vendor Accounts
2520.40	Issuance of Replacement Hunting, Fishing and Trapping Licenses, Stamps and Permits
2520.50	Sale of Licenses by Telephone or Electronic Transmission
2520.60	

AUTHORITY: Implementing and authorized by Sections 1.4, 3.1, 3.2, 3.37, 3.38 and 3.39 of the Wildlife Code [520 ILCS 5/1.4, 3.1, 3.2, 3.37, 3.38 and 3.39] and Sections 1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 20-5, 20-10, 20-30, 20-45, 20-55 and 20-120].

SOURCE: Adopted and codified at 7 Ill. Reg. 8760, effective July 15, 1983; amended at 8 Ill. Reg. 5660, effective April 16, 1984; amended at 9 Ill. Reg. 14626, effective September 17, 1985; amended at 11 Ill. Reg. 4633, effective March 10, 1987; amended at 15 Ill. Reg. 7653, effective May 7, 1991; amended at 16 Ill. Reg. 8479, effective May 26, 1992; amended at 18 Ill. Reg. 9991, effective June 21, 1994; amended at 19 Ill. Reg. 7541, effective May 26, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 14417, effective October 25, 1996; amended at 21 Ill. Reg. 6483, effective May 19, 1997; amended at 22 Ill. Reg. 10466, effective June 1, 1998; amended at 23 Ill. Reg. 5813, effective MAY 20 1999.

Section 2520.60 Sale of Licenses by Telephone or Electronic Transmission

- a) Persons or businesses authorized to issue licenses, stamps or permits and wishing to perform this service by telephone or electronic transmission (such as the Internet) while passing on to the customer a transaction cost above the 50-75 cent issues fee must:
- 1) Make a request to the Department in writing detailing the proposed process and indicating the types of licenses, stamps or permits that would be sold from the service.
 - 2) Comply with all existing license vendor regulations.
 - 3) If a telephone service is offered, insure that the service is a toll-free phone service.
 - 4) Package and ship the license, stamp or permit to the customer within 24 hours after receipt of the customer's request.

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- 5) Retain sales information for at least 24 months.
- 6) The issuing agent may charge a convenience fee to the customer not to exceed \$4 to cover the cost of the transaction, including mailing and handling fees. Any convenience fee passed on to the customer must be clearly identified to minimize confusion by clarifying that the fee is not a license fee increase and not a fee passed on to the Department.
- c) If a confirmation number is assigned to the customer for the transaction, the issuing agent will:
 - 1) Seek and obtain permission from the license buyer to put the buyer's signature or initials on the signature area of the license.
 - 2) Record the buyer's driver's license number and state of issue or some other means of identification to identify place of legal residency when the buyer is purchasing a resident license.
 - 3) Issue a unique confirmation number to the buyer based on an approved formula from the Department.
 - 4) Instruct the buyer that they must record the assigned confirmation number on a piece of paper along with the person's name, date of birth, date of the transaction, and mailing address. Buyer will be instructed that this piece of paper must contain the buyer's signature and be kept on the buyer's person while fishing or hunting until the buyer receives the license in the mail.
 - 5) Instruct the buyer that use of the confirmation number as a temporary license is valid up to 30 days from date of sale.
 - 6) Immediately update a license verification database with the transaction information.

(Source: Added MAY 20 1995, Ill. Reg. 6818, effective

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- 1) Heading of the Part: Designation of Restricted Waters in the State of Illinois
- 2) Code Citation: 17 Ill. Adm. Code 2030
- 3) Section Numbers
2030.20
2030
Adopted Action:
Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].
- 5) Effective Date of Amendments: May 20, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: March 19, 1999, 23 Ill. Reg. 3299
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Public safety concerns exist due to the opening of the Downtown Marina at Peoria and the growth of boating at the confluence of the Illinois and Mississippi Rivers. These amendments create a no-wake zone for the length of the new marina at Peoria and a no-wake zone at the confluence of the Illinois and Mississippi Rivers.
- 16) Information and questions regarding these adopted amendments shall be directed to:

Jack Price
Department of Natural Resources
524 S. Second Street, Room 430

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Springfield IL 62701-1787
217/782-1809

The full text of the adopted amendments begins on the next page:

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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER e: LAW ENFORCEMENT

PART 2030

DESIGNATION OF RESTRICTED WATERS IN THE STATE OF ILLINOIS

Section	General Regulations
2030.10	General Regulations (Repealed)
2030.10	Designation of Restricted Waters by the Department of Natural Resources
2030.15	
2030.20	Region I - Designated Restricted Boating Areas
2030.30	Region II - Designated Restricted Boating Areas
2030.40	Region III - Designated Restricted Boating Areas
2030.50	Region IV - Designated Restricted Boating Areas
2030.60	Region V - Designated Restricted Boating Areas (Repealed)
2030.70	Riverboat Gambling Casinos - Designated Restricted Boating Areas

AUTHORITY: Implementing and authorized by Sections 5-7 and 5-12 of the Boat Registration and Safety Act [625 ILCS 45/5-7 and 5-12].

SOURCE: Adopted at 5 Ill. Reg. 8763, effective August 25, 1981; codified at 5 Ill. Reg. 10617; amended at 9 Ill. Reg. 4789, effective April 2, 1985; amended at 11 Ill. Reg. 9519, effective May 5, 1987; emergency amendment at 12 Ill. Reg. 8745, effective May 15, 1988, for a maximum of 150 days; emergency expired September 20, 1988; emergency amendment at 12 Ill. Reg. 12111, effective July 6, 1988, for a maximum of 150 days; emergency expired December 12, 1988; amended at 12 Ill. Reg. 16707, effective September 30, 1988; amended at 12 Ill. Reg. 20472, effective November 28, 1988; corrected at 13 Ill. Reg. 9677; emergency amendment at 13 Ill. Reg. 2878, effective February 21, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 12814, effective July 21, 1989; amended at 16 Ill. Reg. 8483, effective May 26, 1992; amended at 19 Ill. Reg. 7549, effective May 26, 1995; emergency amendment at 19 Ill. Reg. 11967, effective August 3, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 750, effective December 29, 1995; amended at 20 Ill. Reg. 7864, effective June 3, 1996; recodified by changing the name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 20 Ill. Reg. 15692, effective December 2, 1996; amended at 23 Ill. Reg. 6842, effective MAY 20 1999.

Section 2030.20 Region I - Designated Restricted Boating Areas.

- a) The following portions of the Rock River are designated as Slow, No Wake areas:

- 1) An area of the Rock River located at Moonlite Bay, 4 miles east of Sterling and 6 miles west of Dixon, Illinois.
- 2) The portion of the Rock River 1/4 mile above the dam at Oregon,

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- Illinois, at the docking area at Lowden Memorial Park.
- b) The following portions of the Fox River are designated as Slow, No Wake areas:
- The portion of the Fox River between the Main Street bridge of the City of Ottawa and the mouth of the Fox River at the confluence of the Illinois River.
- c) The following portions of the Illinois River are designated as Slow, No Wake areas:
- 1) The portion of the Illinois River from the Burlington Northern R.R. bridge in the City of Ottawa to the upstream side of the mouth of the Fox River.
 - 2) The area of the Illinois River near the Spring Bay boat harbor at Spring Bay, Illinois.
 - 3) An area of the Illinois River at the Woodford County Conservation area, 7 miles north of Spring Bay off Route 87.
 - 4) An area of the Illinois River located at the Detweiler Marina, Peoria, Illinois.
 - 5) An area of the Illinois River from the southernmost edge of the Downtown Riverfront Marina to the Murray Baker Bridge, Peoria, Illinois.
 - 65) An area of the Illinois River at Alfrisco Harbor, Peoria Heights, Illinois.
 - 76) An area located at the Sobowski Marina, Peoria Heights, Illinois.
 - 87) An area located at the Illinois Valley Yacht Club, Peoria Heights, Illinois.
 - 98) An area at Henry, Illinois, on the west side of the River from Browns Landing to 300 yards north of the bridge.
 - 109) The Lacon Boat Club Dock, Lacon, Illinois.
 - 119) The boat harbor at Lacon, Illinois.
 - 121) An area at the South Shore Boat Club, Peru, Illinois.
 - 131) The harbor of Starved Rock Marina, Ottawa, Illinois.
 - 132) The waters of the Illinois River beginning in front of the Pekin Boat Club launching ramp.
 - 143) The waters of the Illinois River are designated as Slow, No Wake areas:
 - d) The following portions of the Mississippi River are designated as Slow, No Wake areas:
 - 1) An area bordering the Savanna Park waterfront, extending from a jetty south of the Ritchie Boat Dock, north to a jetty north of the Kindell Marina.
 - 2) An area in Vaeley Chute which runs through the Andalusia Islands located 4 miles west of Andalusia.
 - 3) An area at the launching ramp and harbor of the Rock Island Boat Club located at the foot of 18th Avenue in Rock Island.
 - 4) An area at the harbor and boat ramp in front of the Legion Hall at Cordova, Illinois.
 - 5) An area located at the boat ramps, City of Moline, between 26th Street and 34th Street and River Drive.
 - 6) An area near the launching ramps and bathing beach at Keithsburg, Illinois.

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- 7) An area in the chute connecting Sturgeon Bay and the Mississippi River at New Boston, Illinois.
 - 8) An area near the boat ramp and floating gas station at the end of Route 17 at New Boston.
 - 9) An area at Shokohon, Illinois.
 - 10) An area in the fish preserve lock and dam 19 at Hamilton, Illinois.
 - 11) The public launching area 3 miles north above the dam at Hamilton.
 - 12) The waters of Harris Slough Mississippi River backwaters at the Galena Boat Club, 3 miles south of Galena, Illinois.
 - 13) The waters encompassing the cut starting at the mouth of the cut on Deadman's Slough, then northward approximately 250 feet to the confluence of the Harris and Keokough Sloughs.
 - 14) The backwater section of the Mississippi River (river mile marker 479.8) that starts at the Harbor opening of Potter's Lake, Sunset Park, Rock Island and covers the entire lake area.
 - 15) The area of Cattail Slough off the Mississippi River, located south of Fulton, Whiteside County, 7/10 mile in length, 150 yards wide, starting on the north at the Chicago and Northwestern S.R. bridge and extending south 7/10 of a mile to the first narrows.
 - 16) The waters of the south entrance to Chandler Slough lying upstream from the north boundary of the U.S. Fish and Wildlife Service property up to and including the Bent Prop Marina harbor area.
 - 17) The waters of Prentress Lake lying upstream from the boat ramp at Charles Boat Dock, including the adjacent sand pit harbor area.
 - 18) An area of the Mississippi River in the vicinity of the Lazy River Marina at Savanna, Illinois, extending from the upper limit of the dredge cut at Miller's Lake to a point north of the Miller's Hollow public launching ramp.
 - 19) An area located approximately at Mississippi River mile 536.6 known as Savanna Slough from the Soo Line railroad bridge north to the north point of the Savanna Park District island as posted by signs or buoys.
- e) The following waters shall be designated as restricted waters as described below:
- 1) NO BOATS
 - A) The swimming area at Martin Park, Loves Park, Illinois.
 - B) The swimming area at Albany Beach located in Albany Township.
 - C) The swimming area at the Santa Fe Island bar, approximately 4 miles north of Savanna.
 - D) The head of Big Island and 1 1/2 miles north of Oquawka, Illinois.
 - E) The Boy Scout Camp located on Lake Cooper, Mississippi River.
 - F) The waters of the four chutes of Argyle Lake, approximately

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2 miles north of Colchester, Illinois.

- g) The water 600 feet above and 150 feet below dams 12, 13, 14, 15, 16, 17 and 18 on the Mississippi River.

- 2) NO SKI - it shall be unlawful to water ski in the following designated waters:

That area of the inside cut of the Mississippi River, opening directly into Prentrees Lake, includes the area from the north to the south entrances from the river slough, inclusive, east of Mile Post 576.

(Source: Amended at 23 Ill. Reg. 6822 = , effective MAY 20 1999.)

Section 2030.50 Region IV - Designated Restricted Boating Areas

- a) The following portions of the Illinois River are designated as Slow, No Wake areas:

- 1) The designated area in the vicinity of the boat launching ramp at Havana, Illinois.

- 2) The mouth of Patterson Bay.

- 3) The waters of Bath Chute at head of Island, at the foot of Island, above the town of Bath, Illinois, and below the town of Bath, Illinois.

- 4) Designated areas of Silver Lake in Calhoun County.

- 5) Near Grafton, Illinois, an area at the confluence of the Illinois and Mississippi Rivers starting at the old water treatment plant and extending 150 feet out from the shoreline continuing upstream to Shafer's Wharf.

- b) The following portion of the Mississippi River is designated as No Boats:

The water 600 feet above and 150 feet below dams 19, 20, 21 and 22 on the Mississippi River.

- c) The following portions of Quincy Bay in Adams County are designated as Slow, No Wake Areas:

- 1) Designated area at the entrance to Broad Lake.

- 2) Designated area at the "River Channel Cut-Through."

- 3) Quincy Bay Harbor area from the Railroad Bridge south to the southern tip of Quinsippi Island.

- d) Piasa Creek in Jersey County from its mouth at the Mississippi River upstream to Illinois Route 100 bridge.

- e) Otter Creek in Jersey County from its mouth at the Illinois River upstream to Illinois Route 100 bridge.

- f) The following portions of Sangchris Lake in Christian County are designated as No Boat areas:

- 1) The power plant intake arm beyond the buoy line.

- 2) The power plant discharge arm beyond the buoy line.

- 3) The designated South Waterfowl Refuge or Rest Area.

- 4) The designated North Waterfowl Refuge or Rest Area.

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- g) Macopin Creek from its mouth at the Illinois River upstream to Reddish Ford bridge.

- h) The following portions of Coffeen Lake in Montgomery County are designated as No Boats and No Fishing areas:

- 1) The power plant intake arm beyond the buoy line.

- 2) The power plant discharge arm beyond the buoy line.

- 3) The buoyed area of the spillway.

- i) The following portions of the Kaskaskia River are designated as Slow, No Wake Areas:

- 1) All backwaters and/or side channels below Fayetteville, Illinois.

- 2) All waters between the Illinois Route 3 Bridge and the Northern boundary of the public boat ramp in Evansville, Illinois.

- 3) All waters between the ICG Railroad Bridge and the entrance to the public boat launching ramp known as "Baldwin Ramp."

- 4) River Mile 24 to 25.

- 5) 100 yards upstream and 100 yards downstream from the Kaskaskia River Lock and Dam.

- 6) 100 yards upstream and 100 yards downstream from the New Athens boat launching ramp.

- j) The following portion of the Mississippi River is designated as a Slow, No Wake area:

An area 6 1/2 miles north of Hamilton, Illinois.

- k) Those portions of Carlyle Lake, as posted, are designated No Entry, No Boats, No Fishing, or otherwise restricted areas.

(Source: Amended at 23 Ill. Reg. 6822 = , effective MAY 20 1999.)

DEPARTMENT OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: White-Tailed Deer Hunting by Use of Bow and Arrow
- 2) Code Citation: 17 Ill. Adm. Code 670
- 3) Section Numbers
 Adopted Action:
 670.20 Amendments
 670.21 Amendments
 670.40 Amendments
 670.60 Amendments
- 4) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.26, 2.33, 3.5, and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.26, 2.33, 3.5 and 3.36].
- 5) Effective Date of Amendments: May 20, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this amendment contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 22, 1999, 23 Ill. Reg. 833
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version:
 Section 670.10(c) - language being added regarding the Illinois Archery Restricted Zone was removed. This Section no longer contains amended language.
 Section 670.20 - ".00" following a dollar amount was removed in 4 places.
 Section 670.20(e) - language was changed to read "a \$3.00 service fee".
 Section 670.21(c) - ".00" following dollar amount was removed
 Section 670.40 - language being added "No more than 2 deer may be harvested per hunter during the archery season in the Illinois Archery Restricted Zone" was removed.
 Section 670.40 a new subsection (b) was added as follows (and the subsequent subsections re-labeled):

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- b) The Illinois Restricted Archery Zone shall consist of Champaign, Dewitt, Macon, Moultrie, and Piatt counties. No more than 2 deer may be harvested per hunter during the archery season in the Restricted Archery Zone. During the period October 1 - October 31, only antlered deer may be harvested in the Restricted Archery Zone, regardless of permits in possession. An antlered deer is defined as a deer having at least one antler of a length of 3 or more inches. All restrictions listed in subsection (a) also apply in the Restricted Archery Zone.
- Section 670.60(g) - "Green River State Wildlife Area (1) (2)" was added.
- Section 670.60(g) - Kaskaskia River - the comma following "(2)" was removed and a parenthesis was added prior to "except".
- Section 670.60(j) - "Green River State Wildlife Area (1) (2)" was deleted.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Amendments are being made to this Part to open and close State-owned or -managed sites and establish a new restrictive Archery Hunting Zone.
- 16) Information and questions regarding these adopted amendments shall be directed to:
 Jack Price
 Department of Natural Resources
 524 S. Second Street, Room 430
 Springfield IL 62701-1787
 217/782-1809

The full text of the adopted amendments begins on the next page:

DEPARTMENT OF ADOPTED AMENDMENTS

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 670

WHITE-TAILED DEER HUNTING BY USE OF BOW AND ARROW

Section	
670-10	Statewide Open Seasons and Counties
670-20	Statewide Deer Permit Requirements
670-21	Deer Permit Requirements - Landowner/Tenant Permits
670-30	Statewide Legal Bow and Arrow
670-40	Statewide Deer Hunting Rules
670-50	Rejection of Application/Revocation of Permits
670-55	Reporting Harvest
670-60	Regulations at Various Department-Owned or -Managed Sites

AUTHORITY: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36 of the Wildlife Code (520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36).

SOURCE: Adopted at 5 Ill. Reg. 8888, effective August 25, 1981; codified at 5 Ill. Reg. 10641; emergency amendment at 5 Ill. Reg. 11402, effective October 14, 1981, for a maximum of 150 days; emergency expired March 13, 1982; amended at 6 Ill. Reg. 10721, effective August 20, 1982; emergency amendment at 6 Ill. Reg. 15581, effective December 14, 1982, for a maximum of 150 days; emergency expired May 13, 1983; amended at 7 Ill. Reg. 10790, effective August 24, 1983; amended at 8 Ill. Reg. 19040, effective September 26, 1984; amended at 9 Ill. Reg. 14317, effective September 9, 1985; amended at 10 Ill. Reg. 16658, effective September 22, 1986; amended at 11 Ill. Reg. 2275, effective January 20, 1987; amended at 12 Ill. Reg. 12042, effective July 11, 1988; amended at 13 Ill. Reg. 12839, effective July 21, 1989; amended at 14 Ill. Reg. 14787, effective September 4, 1990; amended at 14 Ill. Reg. 19859, effective December 3, 1990; amended at 15 Ill. Reg. 10021, effective June 24, 1991; amended at 15 Ill. Reg. 16691, effective October 31, 1991; amended at 16 Ill. Reg. 11116, effective June 30, 1992; amended at 17 Ill. Reg. 286, effective December 28, 1992; amended at 17 Ill. Reg. 13452, effective July 30, 1993; amended at 18 Ill. Reg. 5842, effective April 5, 1994; amended at 19 Ill. Reg. 7560, effective May 26, 1995; amended at 19 Ill. Reg. 15411, effective October 26, 1995; amended at 20 Ill. Reg. 6723, effective May 6, 1996; amended at 21 Ill. Reg. 5561, effective April 19, 1997; amended at 22 Ill. Reg. 6829, effective April 28, 1998; amended at 23 Ill. Reg. 6829, effective

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Section 670-20 Statewide Deer Permit Requirements

- a) All archery deer hunters must have a current, valid Illinois archery deer permit. Archery deer permits are available over-the-counter

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(OTC) from license vendors as combination permits, each consisting of one either-sex permit and one antlerless-only permit. The fee for resident archery combination permits shall be \$25+00; nonresident archery combination permits shall be \$120+00. A single either-sex archery deer permit will be available until September 1 of each year by mail only from the Permit Office. The fee for a resident archery single permit shall be \$15+00; a nonresident archery single permit shall be \$100+00. The permit will authorize the holder to hunt in any of the open counties of the State, on property where permission to hunt has been obtained from the property owner. For the single either-sex or landowner/tenant permit applications and other information, write to:

Department of Natural Resources
Archery Deer Permit Office
524 South Second Street, Room 210
P.O. Box 19227
Springfield, Illinois 62794-9227

- b) To obtain the single either-sex permit or a landowner/tenant permit, applicants must submit an application to the Permit Office using the official current Archery Deer Permit application form. Applications submitted on forms from previous years will be returned. Applicants must complete all portions of the permit application form. Incomplete applications and fees will be returned. Each applicant must submit a personal check or money order for his individual application. The combination archery deer permits are available from license vendors located throughout the State. Hunters purchasing archery deer permits must supply all necessary applicant information to the license vendor in order to properly complete the permit.

- c) Beginning dates for acceptance of applications for the single either-sex permit will be announced publicly. Archery applications received after September 1 will be rejected and the fees returned.

- d) Permits are not transferable. Refunds will not be granted.

- e) A three-dollar \$3.00 service fee will be charged for replacement permits issued by DNR, except that there will be no charge for permits lost in the mail. The procedures for obtaining a replacement license are detailed in 17 Ill. Adm. Code 2520.50. Monies from this source will be deposited in the Wildlife and Fish Fund.

- f) There is no limit to the number of combination archery deer permits that an individual may purchase, but each individual is limited to one of the single either-sex permits per season.

(Source: Amended 23 Ill. Reg. 6829, effective

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Section 670-21 Deer Permit Requirements - Landowner/Tenant Permits

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- a) The immediate family of a landowner or tenant is limited to the spouse, children or parents permanently residing on the same property as the landowner or tenant.
- b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. Hunting and mineral rights leases are not valid for a tenant permit.
- c) Resident Illinois landowners who own 40 acres or more of land and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family, may apply for a free combination archery deer permit for their property only. Nonresident Illinois landowners (of 40 acres or more) are also eligible to apply for a combination archery deer permit for their property only. The fee to non-resident Illinois landowners owning 40 acres or more for a combination permit for their property only shall be \$70-00. This deer hunting permit shall be valid on all farm lands owned, leased, or rented by the person to whom it is issued. Qualified landowners/tenants who choose not to receive property-only firearm permits may receive 2 combination archery deer permits for their property only.
- d) If property is owned or rented by more than one person, only one landowner (and his immediate family) or one tenant (and his immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive deer permits.
- e) Shareholders of corporations owning 40 or more acres of land in a county may apply for one combination permit to hunt the corporation lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county shall be issued based on ownership of lands by corporations. Lands leased to corporations shall not be considered as a basis for a permit for the shareholders of the lessee. Lands held in trust by corporations shall not be considered as a basis for a permit by the shareholders of the trustee. If application is made for a permit based upon lands owned by the corporation, a duly authorized officer of the corporation must sign a notarized statement authorizing the applicant to hunt on the corporate lands for which a permit is being requested. This statement must identify the applicant as a shareholder, identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder combination permit shall be free to resident shareholders, and the cost to non-resident nonresident shareholders shall be \$70-00.
- f) The application period for these permits will be publicly announced. Applicants submitting applications for a landowner or shareholder archery permit after September 1 will not be guaranteed a permit by October 1.

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(Source: Amended at 23 Ill. Reg. 6829 effective
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Section 670.40 Statewide Deer Hunting Rules

- a) The bag limit is one deer per legally authorized either-sex, antlered-only or antlerless-only permit. All either-sex permits and antlered-only permits are subject to the following restriction: no hunter, regardless of the quantity or type of permits in his/her possession, may harvest more than 2 antlered deer during a year, including the archery, muzzleloader and firearm seasons. For purposes of this subsection, deer seasons are considered to be in the same year if their opening dates fall within the same 12-month period that begins on July 1. A hunter in possession of an either-sex permit after having harvested 2 antlered deer during a year, as defined above, may only use the permit to harvest an antlerless deer. Subject to this restriction, an either-sex permit holder is allowed to take a deer with or without antlers, and an antlered-only permit holder is allowed to take only a deer having at least one antler of a length of 3 or more inches. An antlerless-only permit holder is allowed to take only a deer without antlers or a deer having antlers less than 3 inches long.
- b) The Illinois Restricted Archery Zone shall consist of Champaign, Dewitt, Macon, Moultrie, and Piatt counties. No more than 2 deer may be harvested per hunter during the archery season. In the Restricted Archery Zone. During the period October 1 - October 31, only antlered deer may be harvested in the Restricted Archery Zone, regardless of permits in possession. An antlered deer is defined as a deer having at least one antler of a length of 3 or more inches. All restrictions listed in subsection (a) also apply in the Restricted Archery Zone.
- c) b) Recipients of the single either-sex or landowner/tenant Archery Deer hunting Permit shall record their signature on the permit and must carry it on their person while hunting. Holders of combination OTC permits shall record their name and address on the check station tag portions of their permit and must carry it on their person while hunting.
- d) e) The temporary harvest tag shall be attached and properly sealed immediately upon kill and before the deer is moved, transported or field dressed. No person shall leave any deer that has been killed without properly attaching the temporary harvest tag to the deer. The temporary harvest tag should be attached around the base of the antler of antlered deer (antlers 3 or more inches in length), and attached to the leg of antlerless deer (<3 inch antler length), or no antlers. A permanent harvest tag will be attached to the leg of the deer upon check out at the check station. If the head/antlers are delivered to a taxidermist for processing, the temporary harvest tag must accompany them and be kept with the head/antlers while at the taxidermist. If the carcass is taken to a meat processor, the

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permanent harvest tag must remain attached to the leg of the deer until it is processed, then must remain with the processed deer until it is at the legal residence of the person who legally took or possessed the deer. Persons delivering deer/parts of deer to a tanner for processing must supply the tanner with their deer permit number to verify lawful acquisition. In the absence of a permit number, the tanner may rely on the written certification of the person from whom the deer was received that the specimen was legally taken or obtained.

e) Hunters shall not have in their possession, while in the field during archery deer season, any deer permit issued to another person (permits are non-transferable).

f) Permits will not be re-issued in cases involving deer taken which are found to be diseased or spoiled due to previous injury. Legal disposal of unfit deer taken shall be the responsibility of the hunter.

(Source: Amended at 23 Ill. Reg. ~~5829~~ 5829 effective MAY 20 1994)

Section 670.60 Regulations at Various Department-Owned or -Managed Sites

- All the regulations in 17 Ill. Adm. Code 510 (General Hunting and Trapping) apply in this Section, unless this Section is more restrictive.
- Only one tree stand is allowed per deer permit holder. Tree stands must comply with restrictions listed in 17 Ill. Adm. Code 510.10(c)(3) and must be portable. Tree stands must be removed at the end of each day with the exception that tree stands may be left unattended from September 15 through January 31 at those sites listed in this Section that are followed by a (1).
- Check-in, check-out, and reporting of harvest is required at those sites listed in this Section that are followed by a (2).
- Where standby hunters are used to fill quotas, a drawing will be held at sites indicated by a (3).
- Only antlerless deer or antlered deer having at least four points on one side may be harvested at those sites listed in this Section that are followed by a (4).
- Only antlerless deer or antlered deer having at least five points on one side may be harvested at those sites listed in this Section that are followed by a (5).
- Statewide regulations shall apply at the following sites:

Argyle Lake State Recreation Area (2)

* Anderson Lake Fish and Wildlife Area (2)

Apple River Canyon State Park (2)

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* Banner Marsh Fish and Wildlife Area (2)

Beall Woods State Park (antlerless deer only; hunting hours legal opening until 10:00 a.m.; check out by 11:00 a.m.) (1) (2)

* Big Bend State Fish and Wildlife Area (1) (2)

Big River State Forest (2)

Cache River State Natural Area (1) (2)

Campbell Pond Fish and Wildlife Area (1) (2)

Carlyle Lake Lands and Waters (Corps of Engineers managed lands)

Carlyle Lake Wildlife Management Area (except subimpoundment area is closed seven days prior to and during the regular waterfowl season)

Castle Rock State Park (1) (2)

Crawford County Conservation Area (1) (2)

Cypress Creek National Wildlife Refuge

Cypress Pond State Natural Area (1) (2)

Dixon Springs State Park (1) (2)

Dog Island Wildlife Management Area (1) (2)

* Eldon Hazlet State Park (north of Allen Branch and West of Peppenhorse Branch only) (2)

Ferne Clyffe State Park (1) (2)

Fort de Chartres State Historic Site (1) (2)

Fort Massac State Park (1) (2)

* Franklin Creek State Park (2)

Giant City State Park (1) (2)

Goose Lake Prairie State Park (tree stands not allowed; "Texas" type tripod stands allowed; antlerless deer only) (2) (3)

Green River State Wildlife Area (1) (2)

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Heidecke State Fish and Wildlife Area (2) (3) (5)

Horseshoe Lake Conservation Area - Alexander County (Controlled Goose Hunting Area - open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing; remainder of the Public Hunting Area open during statewide season) (1) (2)

I-24 Wildlife Management Area (1) (2)

* Jubilee College State Park (2) (4)

Kaskaskia River Fish and Wildlife Area (1) (2) (except south of Highway 154 and north of Highway 13)

Kidd Lake State Natural Area (1)

Kinkaid Lake Fish and Wildlife Area (1) (2)

Lowden-Miller State Forest (1) (2) (4)

Mackinaw River Fish and Wildlife Area (1) (2)

Marseilles Wildlife Area (closed Friday, Saturday, and Sunday in October) (1) (2)

Marshall Fish and Wildlife Area (2)

Mississippi Fish and Waterfowl Management Area - Pools 25 and 26

Mississippi River Pool 16 (1)

Mississippi River Pools 17, 18 (1)

Mississippi River Pools 21, 22, 24 (1)

* Mt. Vernon Propagation Center (1) (2)

Oakford Conservation Area

Panther Creek Conservation Area (1) (2) (4)

* Peabody River King State Fish and Wildlife Area (East and North subunits close November 1) (1) (2)

Pere Marquette State Park (area east of Graham Hollow Road) (1) (2)

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Pyramid State Park (1) (2)

* Randolph County Conservation Area (1) (2)

Ray Norbut Conservation Area (2)

* Red Hills State Park (1) (2)

Rend Lake State Fish and Wildlife Area (1)

Rice Lake Fish and Wildlife Area (2)

Saline County Fish and Wildlife Area (1) (2)

* Sam Parr State Park (1) (2)

Sangamon County Conservation Area

Sanganois State Wildlife Area (1)

* Shabbona Lake State Park (2)

Siloam Springs State Park (1) (2) (4)

* Silver Springs State Park (2)

Tapley Woods State Natural Area (2)

Trail of Tears State Forest (1) (2)

Turkey Bluffs Fish and Wildlife Area (1) (2)

Union County Conservation Area (Controlled Goose Hunting Area - open from October 1-31; reopens with the close of the Quota Zone goose season through statewide closing) (1) (2)

Walnut Point Fish and Wildlife Area (1)

* Washington County Conservation Area (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season) (1) (2)

Weinberg-King State Park (2)

Wildcat Hollow State Forest (1)

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Witkowsky State Wildlife Area (opens October 15)(2)

- b) Statewide regulations shall apply at the following sites except that hunter quotas shall be filled by mail-in drawing:

Beaver Dam State Park

Burr's Habitat Area (hunter quotas filled by drawing; must have Fox Ridge site permit to be eligible)

Horseshoe Lake State Park (Madison County) (hunting in designated areas only; hunting will close at end of regular duck season) (1) (2)

Momence Wetland

Pere Marquette State Park (hunting in designated camp areas only; season begins the first weekday after camps close)

Rend Lake State Fish and Wildlife Area (designated area on refuge only, designated dates between October 1-October 31, 1996)

- i) State regulations shall apply except that hunters must obtain a free permit from the site office. This permit must be in possession while hunting and must be returned, and harvest reported, to the address indicated on the card before February 15. Failure to return the permit shall result in loss of hunting privileges at that site for the following year.

Chauncey Marsh State Natural Area (permit obtained at Red Hills State Park headquarters) (1)

Clinton Lake State Recreation Area (1)

Coffeen Lake State Fish and Wildlife Area

Des Plaines Conservation Area (closed to archery deer hunting during the site's upland game hunting season) (2)

Des Plaines Game Propagation Center (2)

- * Eagle Creek State Park (4)

East Conant Field (1) (4)

Fox Ridge State Park (1)

Hamilton County Conservation Area (1)

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Harry "Babe" Woodyard State Natural Area (1) (4)

Hidden Springs State Forest (1)

Jeoliet-Army-Ammunition-Plant-(an-additional-\$15-fee-will-be assessed-upon-registration-additionally-wheelchair-accessible blinds-are-available-and-will-be-allocated-on-a-first-come-first served-basis-until-12-noon-to-hunters-with-a-Class-P2A-disability card)-(42)

Kankakee River State Park (deer bowhunters must wear a cap and upper outer garment with at least 400 square inches of solid blaze orange between 9:00 a.m. and 3:00 p.m. on days when upland game hunting is allowed during the site's controlled hunting season. Additionally, a limited hunting opportunity for persons with disabilities exists at the Davis Creek Bike Trail Area. Disabled hunters, as defined in 520 ILCS 5/3.1(c), may register to hunt at the site office and must sign in and out daily. Disabled hunters are required to hunt with a non-disabled partner who may also hunt from predetermined locations during disabled hunting season (the day after the first firearm deer season as set forth in 17 Ill. Adm. Code 650.10 to December 24))

Kickapoo State Park (1)

Mautino State Fish and Wildlife Area (1)

Mermet Lake Conservation Area (1) (2)

Middle Fork Fish and Wildlife Area (1)

- * Mississippi Palisades State Park (November 1 through December 31) (closed during the first firearm deer season) (1)

Newton Lake Fish and Wildlife Area (check deer at site office)

- * Pekin Lake Fish and Wildlife Area (1)

Ramsey Lake State Park (1)

Sam Dale Lake Conservation Area (1)

Sand Ridge State Forest (1)

- * Sangchris Lake State Park (an antlerless deer must be taken before an antlered deer is harvested) (1) (5)

Sato Field (1) (4)

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Shelbyville Wildlife Management Area (1)

Site M (1) (4)

Snake Den Hollow Fish and Wildlife Area (October 1 through start of the central zone goose season)

- * Spring Lake Fish and Wildlife Area (1)

Stephen A. Forbes State Park (1)

Ten Mile Creek Fish and Wildlife Area (areas designated as refuge are closed to all access during Canada goose season only) (1); Belle Rive Unit only (4)

- j) Statewide regulations shall apply except that no hunting is permitted Wednesday through Sunday of the site's permit pheasant season.

Chain O'Lakes State Park (season opens Monday prior to opening of permit pheasant hunting season and closes Tuesday following the close of the permit pheasant hunting season; ~~Wednesday--hunting hours--close-at-2:00-p.m.--and-hunters-must-check-out-by-3:00-p.m.--~~ season reopens on December 26 till close of regular season)

~~Green-River-State-Wildlife-Area-(1)-(2)~~

Iroquois County Conservation Area (2)

Johnson Sauk Trail State Park

Moraine View State Park (1)

Wayne Fitzgerald State Recreation Area (no bowhunting during controlled hunts as posted at the site) (1) (2)

(Source: Amended at 23 Ill. Reg. 6829, effective MAY 20 1999)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Nonhazardous Special Waste Hauling and the Uniform Program

- 2) Code Citation: 35 Ill. Adm. Code 809

- 3) Section Numbers: Adopted Action:

809.101	Amended
809.102	Amended
809.103	Amended
809.104	Added
809.105	Added
809.201	Amended
809.202	Amended
809.203	Amended
809.204	Amended
809.205	Amended
809.206	Amended
809.207	Amended
809.208	Amended
809.209	Amended
809.210	Amended
809.211	Amended
809.212	Added
809.301	Amended
809.302	Amended
809.401	Amended
809.402	Amended
809.501	Amended
809.601	Repealed
809.701	Amended
809.802	Repealed
809.910	Added
809.911	Added
809.912	Added
809.913	Added
809.914	Added
809.915	Added
809.916	Added
809.917	Added
809.918	Added
809.919	Added
809.920	Added
809.921	Added
Appendix A	Repealed

- 4) Statutory Authority: 415 ILCS 5/22, 22.01, 22.2, and 27.

- 5) Effective Date of Amendments: July 1, 1999

POLLUTION CONTROL BOARD

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- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? Yes. See Section 809.104
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice(s) of Proposal Published in Illinois Register: January 4, 1999, 23 Ill. Reg. 83
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between proposal and final version: In Section 809.105, changed "IPEA" to "Agency".
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? Yes

- | | | |
|-----------------|-----------------|--------------------------------------|
| Section Numbers | Proposed Action | Illinois Register Citation |
| 809.211 | Amendment | 23 Ill. Reg. 2489, February 16, 1999 |
| 809.302 | Amendment | 23 Ill. Reg. 2489, February 16, 1999 |
- 15) Summary and Purpose of Amendments: A complete description of this rulemaking is included in the Board's May 20, 1999 opinion and order in docket R98-29, which is available from the address below. This docket amends 35 Ill. Adm. Code Parts 808, 809, and 811.

Prior to the early 1990s, transporters of hazardous waste were subject to numerous hazardous waste transport regulations at the state level. Despite the similarity of the regulations, interstate transporters had to apply for and carry different permits in different states and pay the fees in those states. In 1990 and 1994, Congress enacted legislation creating a Uniform Program to remedy this situation. The proposed amendments to Part 809 adopt the Uniform Program. The Uniform Program provides that a hazardous waste transporter need only apply to one state for a permit and pay a permit fee to the one state. Once the transporter is permitted in one state, the transporter is automatically permitted in every other state that has adopted the Uniform Program. In addition to the permit fee, the transporter pays a fee for each vehicle. In Illinois, the Illinois Environmental Protection Agency will apportion that fee to other states based on the number of miles a vehicle travels in a state and the percentage of the vehicle's total activity that involves hazardous waste.

POLLUTION CONTROL BOARD

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The enclosed proposal makes minor changes to Illinois' existing program for the transportation of nonhazardous special waste so that the nonhazardous special waste program and the Uniform Program are complementary.

The bulk of the new rules provided for in the Act are located in Part 809. Previously in Part 809, Section 808.121 of Part 808, and Section 811.403 of Part 811, the term "hauler" had been used to denote those who transport special waste. The term "transporter" is now used. All references to the term "hauler" in Parts 808.121 and 811.403 have been replaced by "transporter".

In addition, Part 809 Subpart F has been repealed and replaced by amendments to Part 809 Subpart E. A reference to Subpart F in Section 811.402 has been changed to Subpart E. Changes in the table of contents to Part 811 reflect the recently-adopted Board rule R99-1.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joel Sternstein
100 W. Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, Illinois 60601
(312) 814-3665

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address above. Please refer to the Docket number R98-29.

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER 1: POLLUTION CONTROL BOARD

SUBCHAPTER 1: SOLID WASTE AND SPECIAL WASTE HAULING

PART 809

NONHAZARDOUS SPECIAL WASTE HAULING AND THE
UNIFORM PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
809.101 Authority, Policy and Purposes
809.102 Severability
809.103 Definitions
809.104 Incorporations by Reference
809.105 Public Records

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section
809.201 Nonhazardous Special Waste Hauling Permits – General
809.202 Applications for Nonhazardous Special Waste Hauling Permit – Contents
809.203 Applications for Nonhazardous Special Waste Hauling Permit – Signatures and Authorization
809.204 Applications for Nonhazardous Special Waste Hauling Permit – Filing and Final Action by the Agency
809.205 Nonhazardous Special Waste Hauling Permit Conditions
809.206 Nonhazardous Special Waste Hauling Permit Revision
809.207 Transfer of Nonhazardous Special Waste Hauling Permits
809.208 Nonhazardous Special Waste Hauling Permit Revocation
809.209 Permit No Defense
809.210 General Exemption from Nonhazardous Special Waste Hauling Permit Requirements
809.211 Exceptions for Nonhazardous Special Waste Transporters ~~Haulers~~
809.212 Duration of Nonhazardous Special Waste Hauling Permits

SUBPART C: DELIVERY AND ACCEPTANCE

Section
809.301 Requirements for Delivery of Nonhazardous Special or Hazardous Waste to Transporters ~~Haulers~~
809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters ~~Haulers~~

SUBPART D: PERMIT AVAILABILITY VEHICLE-NUMBERS AND SYMBOLS

Section

POLLUTION CONTROL BOARD

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Permit Availability Vehicle-Numbers
Nonhazardous Special Waste Symbols

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section
809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

Section
809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section
809.701 General Provision

SUBPART H: EFFECTIVE DATES

Section
809.801 Compliance Date
809.802 Exceptions (Repealed)

SUBPART I: HAZARDOUS (INFECTIOUS) HOSPITAL WASTE

Section
809.901 Definitions (Repealed)
809.902 Disposal Methods (Repealed)
809.903 Rendering Innocuous by Sterilization (Repealed)
809.904 Rendering Innocuous by Incineration (Repealed)
809.905 Recordkeeping Requirements for Generators (Repealed)
809.906 Defense to Enforcement Action (Repealed)

SUBPART J: UNIFORM PROGRAM

Section
809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program
809.911 Application for a Uniform Permit
809.912 Application for Uniform Registration
809.913 Payment of Processing and Audit Fees
809.914 Payment of Apportioned Mile Fees
809.915 Submittal of Fees
809.916 Previously Permitted Transporters
809.917 Uniform Registration and Uniform Permit Conditions
809.918 Uniform Registration and Uniform Permit Revision

POLLUTION CONTROL BOARD

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809.919 Transfer of Uniform Registration and Uniform Permits
 809.920 Audits and Uniform Registration and Uniform Permit Revocation
 809.921 Permit No Defense

APPENDIX A Old Rule Numbers Referenced (Repealed)

AUTHORITY: Implementing Sections 5, 10, 13, 21, 22, 22.01, and 22.2 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01 and 22.2 and 27] (see P.A. 90-219).

SOURCE: Adopted in R76-10, 33 PCB 131, at 3 Ill. Reg. 13, p. 155, effective March 31, 1979; emergency amendment in R76-10, 39 PCB 175, at 4 Ill. Reg. 13, p. 214, effective August 7, 1980, for a maximum of 150 days; emergency amendment in R80-19, 40 PCB 159, at 5 Ill. Reg. 270, effective January 1, 1981, for a maximum of 150 days; amended in R77-12(B), 41 PCB 369, at 5 Ill. Reg. 6384, effective May 28, 1981; amended in R80-19, 41 PCB 459, at 5 Ill. Reg. 6387, effective May 31, 1981; codified in R81-9, 53 PCB 269, at 7 Ill. Reg. 13640, effective September 30, 1983; recodified in R84-5, 58 PCB 267, from Subchapter h to Subchapter i at 8 Ill. Reg. 13198; amended in R89-13A, at 14 Ill. Reg. 14076, effective August 15, 1990; amended in R91-18 at 16 Ill. Reg. 130, effective January 1, 1992; amended in R95-11 at 20 Ill. Reg. 6842, effective March 27, 1996; amended in R98-29 at 23 Ill. Reg. 6842, effective JUL 1 1999.

SUBPART A: GENERAL PROVISIONS

Section 809.101 Authority, Policy and Purposes

Pursuant to the authority contained in Sections 5, 10, 13, 21, and 22.01, 22.01, 22, and 22.2, of the Environmental Protection Act [415 ILCS 5/5, 10, 13, 21, 22, 22.01, 22, and 22.2], ~~the Rev. Stat. 1989, ch. 113-1/2, pars. 1-10, 1-11, 1-12, 1-13, 1-14, 1-15, 1-16, 1-17, 1-18, 1-19, 1-20, 1-21, 1-22, 1-23, 1-24, 1-25, 1-26, 1-27, 1-28, 1-29, 1-30, 1-31, 1-32, 1-33, 1-34, 1-35, 1-36, 1-37, 1-38, 1-39, 1-40, 1-41, 1-42, 1-43, 1-44, 1-45, 1-46, 1-47, 1-48, 1-49, 1-50, 1-51, 1-52, 1-53, 1-54, 1-55, 1-56, 1-57, 1-58, 1-59, 1-60, 1-61, 1-62, 1-63, 1-64, 1-65, 1-66, 1-67, 1-68, 1-69, 1-70, 1-71, 1-72, 1-73, 1-74, 1-75, 1-76, 1-77, 1-78, 1-79, 1-80, 1-81, 1-82, 1-83, 1-84, 1-85, 1-86, 1-87, 1-88, 1-89, 1-90, 1-91, 1-92, 1-93, 1-94, 1-95, 1-96, 1-97, 1-98, 1-99, 1-100, 1-101, 1-102, 1-103, 1-104, 1-105, 1-106, 1-107, 1-108, 1-109, 1-110, 1-111, 1-112, 1-113, 1-114, 1-115, 1-116, 1-117, 1-118, 1-119, 1-120, 1-121, 1-122, 1-123, 1-124, 1-125, 1-126, 1-127, 1-128, 1-129, 1-130, 1-131, 1-132, 1-133, 1-134, 1-135, 1-136, 1-137, 1-138, 1-139, 1-140, 1-141, 1-142, 1-143, 1-144, 1-145, 1-146, 1-147, 1-148, 1-149, 1-150, 1-151, 1-152, 1-153, 1-154, 1-155, 1-156, 1-157, 1-158, 1-159, 1-160, 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POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

"Hazardous waste transporter" means any person who transports hazardous waste as defined in Section 3.15 of the Act.

"Industrial process waste" means any liquid, solid, semi-solid or gaseous waste, generated as a direct or indirect result of the manufacture of a product or the performance of a service, which poses a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Industrial Process Waste" includes but is not limited to spent pickling liquors, cutting oils, chemical catalysts, distillation bottoms, etching acids, equipment cleanings, paint sludges, incinerator ashes, core sands, metallic dust sweepings, asbestos dust, hospital pathological wastes and off-specification, contaminated or recalled wholesale or retail products. Specifically excluded are uncontaminated packaging materials, uncontaminated machinery components, general household waste, landscape waste and construction or demolition debris. (Section 3.17 of the Act)

"Manifest" means the form provided or prescribed by the Agency and used for identifying name, quantity, and the origin, routing, and destination of special waste during its transportation from the point of generation to the point of disposal, treatment, or storage, as required by this Part, 35 Ill. Adm. Code: Subtitle G H, or by the Resource Conservation and Recovery Act of 1976 (42 USC 6956-6901 et seq.), or regulations thereunder.

"Nonhazardous special waste" means any special waste, as defined in this Section, that has not been identified, by characteristics or listing, as hazardous pursuant to Section 3001 of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.) or pursuant to Board regulations.

"Nonhazardous special waste hauling vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, used to transport nonhazardous special waste in bulk or packages, tanks, or other containers.

"Nonhazardous special waste transporter" means any person who transports nonhazardous special waste.

"Off-site" means any site that is not "on-site".

"On-site" means (for the purpose of transporting hazardous waste) on the same or geographically contiguous property that may be divided by public or private rights-of-way, provided that entrance and exit between the properties is at a cross-roads intersection, and access is by crossing, as opposed to going along, the rights-of-way.

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

Non-contiguous properties owned by the same person but connected by a right-of-way that the person controls, and to which the public does not have access, is also considered on-site property.

"Participating state" means a state that has elected to participate in the uniform program and has entered into a reciprocal agreement.

"Permitted disposal site" means a sanitary landfill or other type of disposal site, including but not limited to a deep well, a pit, a pond, a lagoon or an impoundment which has a current, valid operating permit issued by the Agency agency under Subpart-B of this Part and a supplemental permit issued by the Agency under Subpart-B of this Part specifically permitting the site to accept a special waste tendered for disposal.

"Permitted storage site" means any site used for the interim containment of special waste prior to disposal or treatment that which has a current, valid operating permit issued by the Agency under Subpart-B of this Part and a supplemental permit issued by the Agency under Subpart-B of this Part specifically permitting the site to accept a special waste tendered for storage.

"Permitted treatment site" means any site used to change the physical, chemical or biological character or composition of any special waste, including but not limited to a processing center, a reclamation facility or a recycling center that which has a current, valid operating permit issued by the Agency under Subpart-B of this Part and a supplemental permit issued by the Agency under Subpart-B of this Part specifically permitting the site to accept a special waste tendered for treatment.

"Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, political subdivision, state agency, or any other legal entity or their legal representative, agent or assignee. (Section 3.26 of the Act)

"Pollution control waste" means any liquid, solid, semi-solid or gaseous waste generated as a direct or indirect result of the removal of contaminants from the air, water or land, and which pose a present or potential threat to human health or to the environment or with inherent properties which make the disposal of such waste in a landfill difficult to manage by normal means. "Pollution control waste" includes but is not limited to water and wastewater treatment plant sludges, baghouse dusts, scrubber sludges and chemical spill cleanings. (Section 3.27 of the Act)

"Principal place of business" means the state in which a person owning

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"Tank" means any bulk container placed on or carried by a vehicle to transport special waste, including wheel mounted tanks.

"Treatment" means any method, technique or process, including neutralization designed to change the physical, chemical or biological character or composition of any special waste so as to neutralize that waste or so as to render that waste nonhazardous, safer for transport, amenable for recovery, amenable for storage or reduced in volume. "Treatment" includes any activity or processing designed to change the physical form or chemical composition of special waste to render it less dangerous or nonhazardous. "Treatment" also includes reclamation, re-use and recycling of special waste. (Section 3.49 of the Act)

"Truck" means any unitary vehicle used to transport special waste.

"Truck tractor" means any motor vehicle used to transport special waste that which is designed and used for drawing other devices vehicles and not so constructed as to carry a load other than a part of the weight of the device vehicle and load so drawn.

"Uniform application" means the uniform registration and uniform permit application form established under the Uniform Program and provided by the Agency.

"Uniform permit" means the permit issued by a base state under Part II of the uniform application.

"Uniform Program" means the program established pursuant to the directive of the Hazardous Materials Transportation Uniform Safety Act of 1990 (49 U.S.C. 1 et seq.) and the Hazardous Materials Transportation Authorization Act of 1994 (49 U.S.C.S. 5101 et seq.) and implemented pursuant to the Final Report: Uniform Program Pilot Project and the State Program Administrator's Manual, Uniform Program, Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104.

"Uniform registration" means the annual registration issued by a base state under Part I of the uniform application, if the base state has a registration requirement.

"Vehicle" means any self-propelled motor vehicle, except a truck tractor without a trailer, designed or used for the transportation of hazardous waste. (Section 22.2(1-5)(1) of the Act) device used to transport special waste in bulk or in packages, tanks or other containers.

"Waste" means any garbage, refuse, sludge from a waste treatment

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plant, water supply treatment plant, or air pollution control facility or other discarded material, including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining and agricultural operations, and from community activities but does not include solid or dissolved material in domestic sewage. "Waste" as here defined does not include solid or dissolved material in domestic sewage, or solid or dissolved materials in irrigation return flows, or coal combustion by-products as defined in Section 3.94, or in industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as now or hereafter amended, (33 U.S.C. 1251 et seq.) or source, special nuclear, or byproduct materials as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 921 U.S.C. 2011 et seq.) or any solid or dissolved material from any facility subject to the Federal Surface Mining Control and Reclamation Act of 1977, F.R.L. 95-87) or the Rules and Regulations thereunder or any law or rule or regulation adopted by the State of Illinois pursuant thereto. (Section 3.53 of the Act.) or radioactive materials discarded in accordance with the provisions of 49 U.S.C. in relation to personnel radiation monitoring. ii-Rev. Stat. 1999, Chapter 11-1/2, par. 230.12 et seq.) and as authorized by regulations promulgated pursuant to the Radiation Protection Act" (11-Rev. Stat. 1999, Ch. 11-1/2, par. 231.12 et seq.) as now or hereafter amended. "Waste" as here defined is intended to be consistent with the definition of "solid waste" set forth in Section 1604(27) of Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(27)) (Section 3.53 of the Act.)

(Source: Amended at 23 Ill. Reg. 5842, effective JUL 1 1999)

Section 809.104 Incorporations by Reference

The Board incorporates the following material by reference:

- a) CFR (Code of Federal Regulations). A copy is available from the Superintendent of Documents, United States Government Printing Office, Washington, DC 20402 (202) 783-3238.
 - 49 CFR 171 (1996)
 - 49 CFR 172 (1996)
 - 49 CFR 177 (1996)
 - 49 CFR 178 (1996)
 - 49 CFR 180 (1996)
 - 49 CFR 383 (1996)
 - 49 CFR 387 (1996)
 - 49 CFR 390-397 (1996)
- b) The Report of the Alliance for Uniform HazMat Transportation Procedures, November 17, 1993. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590.

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- c) The Final Report: Uniform Program Pilot Project, March 15, 1996. A copy is available from the U.S. Department of Transportation, 400 Seventh Street, SW, Washington, D.C. 20590 or on the internet at <http://www.fhwa.dot.gov/omc/alliance.html>.
- d) State Program Administrator's Manual, Uniform Program, Alliance for State Program Administrator's Manual, revised version, September 10, 1997. A copy is available from the National Governors' Association, 444 North Capitol Street, Suite 267, Washington, D.C. 20001 or the National Conference of State Legislatures, Attn: Alliance Project Manager, 1560 Broadway, Suite 700, Denver, CO 80202.
- e) This Section incorporates no later editions or amendments.

(Source: Added at 23 Ill. Reg. §842, effective JUL 1 1999)

Section 809.105 Public Records

Information submitted to the Agency or Board pursuant to this Part will be withheld from or released to the public in accordance with the following:

- a) The Illinois Freedom of Information Act [5 ILCS 140];
 b) 35 Ill. Adm. Code 120; and
 c) IEPA rules implementing the Illinois Freedom of Information Act.

(Source: Added at 23 Ill. Reg. _____, effective _____)

SUBPART B: NONHAZARDOUS SPECIAL WASTE HAULING PERMITS

Section 809.201 Nonhazardous Special Waste Hauling Permits - General

No person may shell haul or otherwise transport any nonhazardous special waste generated within Illinois or any nonhazardous special waste to be disposed of, stored or treated within Illinois without a current, valid nonhazardous special waste hauling permit issued by the Agency in accordance with the requirements of this Subpart unless the transporter participates in the Uniform Program or neither is exempt from the nonhazardous special waste hauling permit requirements under this Subpart.

(Source: Amended at 23 Ill. Reg. §842, effective JUL 1 1999)

Section 809.202 Applications for Nonhazardous Special Waste Hauling Permit - Contents

Applications for nonhazardous special waste hauling permits shall be made on application forms prescribed or provided by the Agency, which, at a minimum, shall require the following information:

- a) Name, address, telephone number and location of the nonhazardous

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- special waste hauling vehicle owner and operator applying for the permit;
 b) A description of the service-to-be-provided, including the number and types of nonhazardous special waste hauling vehicles and tanks to be used;
 c) An agreement by the nonhazardous special waste hauling vehicle owner and the operator identified in Section Subsection 809.202(a) that:

- 1) Nonhazardous special Special waste loading, hauling and unloading will be conducted in compliance with all applicable State statute and federal laws and regulations;
 2) All nonhazardous special waste hauling vehicles and tanks used in nonhazardous special waste hauling will be clean and in good repair at all times when so employed;
 3) All nonhazardous special waste hauling vehicles, tanks and associated piping, valving, etc., will be constructed and maintained to prevent leakage or spillage, and shall be cleanable;
 4) No waste may shall be mixed with other wastes in one tank or on results in a hazardous combination likely to cause explosion, fire or release of a dangerous or toxic gas or in violation of any applicable State statute or federal law or regulation;
 5) The nonhazardous special waste hauling equipment and procedures to be used shall be proper for the permitted service, be safe for the transporters handlers, handlers, and others, and meet the requirements of all other applicable State statute and federal laws and regulations; and

- d) The application may require additional information deemed necessary by the Agency consistent with the requirements of the Act and Board regulations. and filed with the Administrative Code Unit of the Office of the Secretary of State pursuant to Illinois Administrative Procedure Act, (Ill. Rev. Stat. 1991 Ch. 127, Part 1001 et seq.)

(Source: Amended at 23 Ill. Reg. §842, effective JUL 1 1999)

Section 809.203 Applications for Nonhazardous Special Waste Hauling Permit - Signatures and Authorization

All nonhazardous special waste hauling permit applications shall be signed by the owner and operator of the nonhazardous special waste hauling vehicle; or, in the name of the owner and operator, by the owner's or operator's duly authorized agent when accompanied by evidence of authority to sign the application.

(Source: Amended JUL 1 1999 23 Ill. Reg. §842, effective _____)

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Section 809.204 Applications for Nonhazardous Special Waste Hauling Permit - Filing and Final Action by the Agency

- a) An application for nonhazardous special waste hauling permit is considered ~~shall be deemed to be~~ filed on the date of ~~initial receipt~~ by the Agency receives of a properly completed application on the form prescribed or provided by the Agency and with correct fees.
- b) If the Agency fails to take final action (which includes granting or denying the nonhazardous special waste hauling permit as requested, or by granting the nonhazardous special waste hauling permit with conditions) within 90 days after ~~from~~ the filing of the date the completed application is filed, the applicant may deem the nonhazardous special waste hauling permit granted for a period of one calendar year commencing on the 91st day after the application was filed.
- c) The Agency will ~~shall~~ send all denials notices of final action by U.S. Registered or Certified Mail, Return Receipt Requested. All other final Agency decisions may go by regular U.S. Mail. The Agency will ~~shall~~ be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days of the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

- d) The Agency will ~~shall~~ require the application to be complete. If incomplete, the application will be returned and the transporter will be required to resubmit a complete application. The application must be and consistent with the provisions of the Act and Board regulations. The Agency and may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application. If the application is complete and the granting it thereof will not violate ~~cause a violation of~~ the Act or Board regulations, the Agency will ~~shall~~ grant the permit.

- e) When an application is denied because it fails to comply with the Act or Board regulations, any fees submitted with the application will be non-refundable. Any subsequent refiling of the application will be considered a new application for which an application fee must be included in accordance with Section 22.2 of the Act.

- f) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days of the initial date-stamped rejection.

(Source: Amended at 23 Ill. Reg. 98 42, effective JUL 1 1999)

Section 809.205 Nonhazardous Special Waste Hauling Permit Conditions

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- a) In granting nonhazardous special waste hauling permits ~~hereunder~~, the Agency may impose such conditions as may be necessary to accomplish the purposes of the Act and the Board regulations.
- b) The applicant may deem any conditions imposed by the Agency as a denial of the nonhazardous special waste hauling permit for purposes of review pursuant to Section 40 of the Act.

(Source: Amended at 23 Ill. Reg. 98 42, effective JUL 1 1999)

Section 809.206 Nonhazardous Special Waste Hauling Permit Revision

A nonhazardous special waste hauling permit will be ~~issued hereunder-is~~ automatically modified to include any relevant change in the Act or Board regulations. The Agency will ~~shall~~ revise any nonhazardous special waste hauling permit issued by the Agency under this Part to make the permit compatible with any such relevant changes and so notify the permittee in writing. Failure of the Agency to issue a revised permit ~~shall not excuse the~~ permittee from compliance with any such change. 98 42

(Source: Amended JUL 1 1999 at 23 Ill. Reg. 98 42, effective JUL 1 1999)

Section 809.207 Transfer of Nonhazardous Special Waste Hauling Permits

No nonhazardous special waste hauling permit is transferable from one person to another. A ~~special waste hauling permit is personal to the persons named in the special waste hauling permit~~.

(Source: Amended 23 Ill. Reg. 98 42, effective JUL 1 1999)

Section 809.208 Nonhazardous Special Waste Hauling Permit Revocation

Violation of any nonhazardous special waste hauling permit conditions or failure to comply with any provisions of the Act or with any Board regulation will ~~shall~~ be grounds for sanctions as provided in the Act, including revocation of the permit as therein provided.

(Source: Amended at 23 Ill. Reg. 98 42, effective JUL 1 1999)

Section 809.209 Permit No Defense

The existence of a nonhazardous special waste hauling permit under this Part ~~these rates~~ does ~~shall~~ not provide the permittee with a defense to a violation of the Act or Board regulations, except for hauling nonhazardous special waste without a nonhazardous special waste hauling permit.

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(Source: Amended at 23 Ill. Reg. 68 42 3, effective JUL 1 1999.)

Section 809.210 General Exemption from Nonhazardous Special Waste Hauling Permit Requirements

Any person who generates a total quantity of nonhazardous special waste 100 kilograms (220 pounds) or less in any calendar month for disposal, storage or treatment within Illinois is exempt from the permit requirements of this Subpart and from the manifest provisions in Subpart E of this Part. This exemption shall not constitute a defense to a violation of any provision of the Act or any applicable disposal, storage or treatment requirement of 35 Ill. Adm. Code 807.

(Source: Amended at 23 Ill. Reg. 68 42 3, effective JUL 1 1999.)

Section 809.211 Exemptions for Nonhazardous Special Waste Transporters Haulers

The following persons need not obtain a nonhazardous special waste hauling permit nor carry a manifest if they haul only the waste indicated:

- Any person licensed in accordance with the Private Sewage Disposal Licensing Act [225 ILCS 225] 4411-Rev-Stat-1989-chr-111-1/27-par-116-301-et-seq-7 and who hauls only septic tank pumpings.
- Any person who hauls only livestock waste intended for land application pursuant to 35 Ill. Adm. Code 560.
- Transporters Haulers of municipal water or wastewater treatment plant sludge that which is to be applied to land and that which is regulated under a sludge management scheme approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.
- Any person licensed in accordance with "An Act in relation to the disposal of Illinois Dead Animal Disposal Act of Dead Animals" [225 ILCS 610] 4411-Rev-Stat-1989-chr-8-par-149-1-et-seq-7 and who hauls only grease, meat packing scraps, dead animals and parts of animals for delivery to a renderer.
- Any person operating under rules and regulations adopted pursuant to "An Act in relation to Oil, Gas, Coal and Other Surface and Underground Resources [225 ILCS 725] 4411-Rev-Stat-1989-chr-96-1/27-par-548-et-seq-7 and who hauls only oil and gas extraction wastes as defined in that Act.
- Any person who hauls only radioactive wastes as defined by the Radiation Protection Act [420 ILCS 40] 4411-Rev-Stat-1989-chr-111-1/27-par-211-et-seq-7.
- Any person holding a permit or certificate issued by the Illinois Commerce Commission or the Interstate Commerce Commission and who handles only shipments pursuant to a bill of lading in accordance with such Commission's regulations.
- Any person who hauls only coal combustion fly ash.

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- Any person who hauls only declassified waste or refuse.
- Any person who hauls only special waste exempted by 35 Ill. Adm. Code 808.123 (small quantity generators of 220 pounds or less per month of special waste).

Any person who hauls potentially infectious medical waste that is regulated under 35 Ill. Adm. Code Subtitle M.

Any person who hauls used tires regulated under 35 Ill. Adm. Code 848.

(Source: Amended at 23 Ill. Reg. 68 42, effective JUL 1 1999.)

Section 809.212 Duration of Nonhazardous Special Waste Hauling Permits

All permits issued under this Part will be issued for a period not to exceed one year and are renewable.

Applications for renewal of a nonhazardous special waste hauling permit should be made prior to the expiration date of the permit on the application forms prescribed in Section 809.302.

(Source: Amended at 23 Ill. Reg. 68 42, effective JUL 1 1999.)

SUBPART C: DELIVERY AND ACCEPTANCE

Section 809.301 Requirements for Delivery of Nonhazardous Special Waste to Transporters Haulers

No person may shall deliver any special waste generated within Illinois or for disposal, storage or treatment within Illinois unless that person concurrently delivers a manifest completed in accordance with Subpart E of this Part to a special waste transporter hauler who holds a current nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part.

(Source: Amended at 23 Ill. Reg. 68 42 3, effective JUL 1 1999.)

Section 809.302 Requirements for Acceptance of Nonhazardous Special or Hazardous Waste from Transporters Haulers

- No person may shall accept any special waste for disposal, storage or treatment within Illinois from a special waste transporter hauler unless the special waste transporter hauler has a valid nonhazardous special waste hauling permit or Uniform Program Registration and Permit issued by the Agency under Subpart B or C of this Part and concurrently presents to the receiver of the special waste, or the receiver's agent, a completed, signed manifest as required by Subpart E of this Part, which manifest designates the receiver's

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facility as the destination for the special waste.

- b) No person may ~~shall~~ deliver special waste in Illinois for disposal, storage, or treatment unless the person who accepts the special waste has a current, valid operating permit issued by the Agency and the necessary supplemental permits required by 35 Ill. Adm. Code 807, as well as all other applicable permits as required by the Act and Board regulations.

(Source: Amended at 23 Ill. Reg. 6842z, effective JUL 1 1999)

SUBPART D: PERMIT AVAILABILITY VEHICLE NUMBERS AND SYMBOLS

Section 809.401 Permit Availability Vehicle Numbers

The owner and operator of any vehicle, except truck tractors, as defined in Subpart A, which is used to transport special waste, shall list each such vehicle on the special waste hauling permit application. Upon issuance of a nonhazardous special waste hauling permit or a Uniform Program registration and permit, the owner and operator of any such vehicle used to transport nonhazardous special or hazardous waste shall maintain within the vehicle a legible photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit. Upon request, issuance of a nonhazardous special waste hauling permit or Uniform Program registration and permit shall be disclosed by the owner and operator of the vehicle to any representative of the State of Illinois (including, but not limited to, the Agency), any generator of the special waste, or any treatment, storage, or disposal facility that which has handled, is handling, or will handle the special waste. Upon request by any such representative, the transporter shall make available a photocopy of the nonhazardous special waste hauling permit or Uniform Program registration and permit to the representative. Photocopy shall be made available by the owner and operator of the vehicle for review. The owner and operator of the vehicle shall also comply with any otherwise applicable federal regulations.

(Source: Amended at 23 Ill. Reg. 6842z, effective JUL 1 1999)

Section 809.402 Nonhazardous Special Waste Symbols

All vehicles used to transport special waste and packages used to contain special waste shall be labeled, marked and placarded in accordance with regulations adopted by the Illinois Department of Transportation or the United States Department of Transportation or the United States Environmental Protection Agency, whichever has jurisdiction. This rule is provided for informational purposes only and does not constitute an independent enforceable regulation with respect to labeling, marking and placarding requirements.

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(Source: Amended at 23 Ill. Reg. 6842z, effective JUL 1 1999)

SUBPART E: MANIFESTS, RECORDS AND REPORTING

Section 809.501 Manifests, Records, Access to Records, Reporting Requirements and Forms

- a) Any person who delivers special waste to a permitted nonhazardous special or hazardous waste transporter ~~hauler~~ shall complete a uniform hazardous waste manifest to accompany the special waste from delivery to the destination of the special waste. The manifest form will be provided or prescribed by the Agency, which shall be provided or prescribed by the Agency shall, as a minimum, contain the name of the generator of the special waste, when and where generated, name of the person from whom delivery is accepted, and the name of the site from which delivered, the name of the special waste, hauser, the date of delivery, the final disposal, storage or treatment site, and the name, classification and quantity of the special waste delivered to the hauser. The Agency may provide or prescribe a different form of manifest for Class A special wastes than for Class B special wastes.
- b) The transporter shall include in the manifest the following:

- 1) The name of the generator of the special waste and generator's number;
- 2) Information stating when and where the special waste was generated;
- 3) The name of the person from whom delivery is accepted and the name of the site from which delivered;
- 4) The name and permit number of the transporter;
- 5) The date of delivery; and
- 6) The classification and quantity of the special waste delivered to the transporter.

- c) Manifest copies to be sent to the Agency:

- 1) Every person who delivers RCRA hazardous waste or polychlorinated biphenyl (PCB) wastes to a transporter shall submit a copy of the Illinois manifest to the Agency within two days after the shipment. Every person who accepts RCRA hazardous waste or PCB waste from a transporter shall submit a copy of the Illinois manifest to the Agency within 30 days of receipt.
- 2) A person who delivers RCRA hazardous waste or PCB wastes to a transporter on another state's manifest, such as where the destination state requires use of its manifest, does not have to submit manifest copies to the Agency.
- 3) A person who delivers non-RCRA hazardous wastes or non-PCB wastes to a transporter does not have to send a copy of the manifest to the Agency. A person who accepts non-RCRA hazardous waste or non-PCB wastes from a transporter does not have to send a copy of the manifest to the Agency.

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d) The manifest will shall consist of at least four parts, in contrasting colors, such that an entry or signature on one part will be directly reproduced upon all underlying parts. The top part of a manifest shall be signed by the person who delivers special waste to a special waste transporter hauler, such signature acknowledging the such delivery. The top part of the manifest shall also be signed by the special waste transporter hauler, such signature acknowledging receipt of the special waste. The person who delivers special waste to a special waste transporter hauler shall retain the designated parts top-part of the manifest as a record. The remaining three parts of the manifest shall accompany the special waste shipment. At the destination, the second-part of the manifest shall be signed by the person who accepts special waste from a special waste transporter hauler, such signature acknowledging receipt acceptance of the special waste.

e) A permitted site that which receives special waste for disposal, storage or treatment of special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter hauler shall be conducted under a manifest initiated by the permitted disposal, storage or treatment site.

f) In all cases, the special waste transporter hauler shall deliver the designated third-and-fourth parts of the completed, signed manifest to the person who accepts delivery of special waste from the transporter hauler. The special waste transporter hauler shall retain the designated second part of the completed, signed manifest as a record of delivery to a permitted disposal, storage or treatment site. In addition, at the end of each month, or such longer if period-of-time approved by the Agency, the owner and the operator of the permitted disposal, storage or treatment site who accepts special waste from a special waste transporter hauler shall send the designated fourth part of the completed manifest to the person who delivered the special waste to the special waste transporter hauler.

g) Every generator person who delivers special waste to a special waste transporter hauler, every person who accepts special waste from a special waste transporter hauler and every special waste transporter hauler shall retain their respective parts of the special waste manifest as a record of all special waste transactions. These parts should shall be retained for three years and will shall be made available at reasonable times for inspection and photocopying by the Agency.

BOARD NOTE: The manifest requirements of 35 Ill. Adm. Code 722, 724 and 725 relative to RCRA hazardous wastes are not affected by this subsection. Generators and receiving facilities subject to those Parts shall continue to supply designated copies of all manifests to the Agency.

f) Every person who delivers Class-A special-waste-to-a-special-waste hauler--and--every person--who--accepts-Class-A special-waste-from-a

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special-waste-hauler shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar quarter. Such reports shall, at a minimum, include the information specified in subsections (h) and (i) of this Section and be mailed no later than the tenth day of the month following the end of the calendar quarter. This subsection shall be applicable to all Class-A special-wastes--which are delivered to a special-waste hauler on or after January 1, 1991.

h) Every generator person who delivers nonhazardous Class-B special waste via a transporter to a facility located outside Illinois special waste hauler--and--every person who accepts-Class-B special-waste-from a special-waste-hauler shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year, ending on August 1. Such reports shall, at a minimum, include the information specified in subsection (i) of this Section and should shall be received by the Agency mailed no later than February 1, October 1, or two months following the end of the preceding year. This subsection shall be applicable to all Class-B special-wastes--which are delivered to a special-waste-hauler on or after January 1, 1991.

i) Every quarterly or annual report required to be filed with the Agency by a generator for waste going out of state pursuant to subsection (h) of 67-0.197 of this Section shall include the following:

- 1) the EPA identification number, name and address of the generator;
- 2) the period (calendar quarter or year) covered by the report;
- 3) The EPA identification number, name and address for each off-site treatment, storage or disposal facility in the United States to which waste was shipped during the period;
- 4) The name and EPA special waste hauling identification number of each transporter used during the period for shipments to a treatment, storage or disposal facility within the United States;
- 5) The EPA supplemental permit identification number issued for the wastestream shipped off-site;
- 5) A description and the total quantity of each nonhazardous special waste wastestream shipped out of state off-site, listed by EPA identification number of each receiving site; and
- 6) The method of treatment, storage or disposal for each nonhazardous special waste; and
- 7) A certification signed by the generator or the generator's authorized representative.

j) Every in-State facility that accepts nonhazardous special waste from a nonhazardous special waste transporter shall file a report, on forms prescribed or provided by the Agency, summarizing all such activity during the preceding calendar year. Such reports should, at a minimum, include the information specified in subsection (k) of this Section, and be received by the Agency no later than February 1. This subsection is applicable to all nonhazardous special wastes that are

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delivered to a nonhazardous special waste transporter on or after January 1, 1991.

k) Every quarterly or annual report required to be filed with the Agency by a person accepting nonhazardous special waste from a nonhazardous special waste transporter ~~haver~~ pursuant to subsection (l) (4) or (4) of this Section shall include the following information:

- 1) The EPA identification number, name and address of the facility;
- 2) The period (calendar quarter or year) covered by the report;
- 3) The ~~for-off-site-facilities~~ the EPA identification number, name and address of each nonhazardous special hazardous waste generator from which the facility received a nonhazardous non-hazardous special waste during the period; for imported shipments the report must give the name and address of the foreign generator;
- 4) A description and the total quantity of each nonhazardous non-hazardous special waste the facility received from off-site during the period. This information shall be listed by EPA identification number of each generator;
- 5) The method of treatment, storage or disposal for each nonhazardous non-hazardous special waste; and
- 6) A certification signed by the owner or operator of the facility or the owner or operator's authorized representative.

(Source: Amended at 23 Ill. Reg. 68 42, effective JUL 1 1990.)

SUBPART F: DURATION OF PERMITS AND TANK NUMBERS

Section 809.601 Duration of Special Waste Hauler Permits and Tank Numbers (Repealed)

- a) All permits and tank numbers issued hereunder shall be issued for a period not to exceed one year and are renewable;
- b) Applications for renewal of a special waste hauler permit shall be made 90 days prior to the expiration date of the permit on the application forms prescribed in Section 809.202.

(Source: Repealed at 23 Ill. Reg. 68 42, effective JUL 1 1990.)

SUBPART G: EMERGENCY CONTINGENCIES FOR SPILLS

Section 809.701 General Provision

In order to facilitate the clean-up, transportation or safe treatment, storage or disposal of any waste generated by an accidental release of any material or special waste within Illinois that which constitutes a present or potential threat to health or to the environment, the Agency may give written exception

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from the procedural requirements of this Part and 35 Ill. Adm. Code 807 in accordance with guidelines adopted by the Agency that which are consistent with Section 3003 of the Resource Conservation and Recovery Act of 1976 (P.L. 94-580) and the Act and Board regulations. A ~~the-existence-of-a~~ written exception from the this Agency under this Subpart does ~~shall~~ not constitute a defense to a violation of the Act or of this Part except for those requirements specifically stated in the written exception.

(Source: Amended at 23 Ill. Reg. 68 42, effective JUL 1 1990.)

SUBPART H: EFFECTIVE DATES

Section 809.802 Exceptions (Repealed)

Every person subject to the provisions of Sections 809.301-809.304-809.307-809.309-809.401-809.402-809.403-809.404-809.405-809.406-809.407-809.408-809.409-809.410-809.411-809.412-809.413-809.414-809.415-809.416-809.417-809.418-809.419-809.420-809.421-809.422-809.423-809.424-809.425-809.426-809.427-809.428-809.429-809.430-809.431-809.432-809.433-809.434-809.435-809.436-809.437-809.438-809.439-809.440-809.441-809.442-809.443-809.444-809.445-809.446-809.447-809.448-809.449-809.450-809.451-809.452-809.453-809.454-809.455-809.456-809.457-809.458-809.459-809.460-809.461-809.462-809.463-809.464-809.465-809.466-809.467-809.468-809.469-809.470-809.471-809.472-809.473-809.474-809.475-809.476-809.477-809.478-809.479-809.480-809.481-809.482-809.483-809.484-809.485-809.486-809.487-809.488-809.489-809.490-809.491-809.492-809.493-809.494-809.495-809.496-809.497-809.498-809.499-809.500-809.501-809.502-809.503-809.504-809.505-809.506-809.507-809.508-809.509-809.510-809.511-809.512-809.513-809.514-809.515-809.516-809.517-809.518-809.519-809.520-809.521-809.522-809.523-809.524-809.525-809.526-809.527-809.528-809.529-809.530-809.531-809.532-809.533-809.534-809.535-809.536-809.537-809.538-809.539-809.540-809.541-809.542-809.543-809.544-809.545-809.546-809.547-809.548-809.549-809.550-809.551-809.552-809.553-809.554-809.555-809.556-809.557-809.558-809.559-809.560-809.561-809.562-809.563-809.564-809.565-809.566-809.567-809.568-809.569-809.570-809.571-809.572-809.573-809.574-809.575-809.576-809.577-809.578-809.579-809.580-809.581-809.582-809.583-809.584-809.585-809.586-809.587-809.588-809.589-809.590-809.591-809.592-809.593-809.594-809.595-809.596-809.597-809.598-809.599-809.600-809.601-809.602-809.603-809.604-809.605-809.606-809.607-809.608-809.609-809.610-809.611-809.612-809.613-809.614-809.615-809.616-809.617-809.618-809.619-809.620-809.621-809.622-809.623-809.624-809.625-809.626-809.627-809.628-809.629-809.630-809.631-809.632-809.633-809.634-809.635-809.636-809.637-809.638-809.639-809.640-809.641-809.642-809.643-809.644-809.645-809.646-809.647-809.648-809.649-809.650-809.651-809.652-809.653-809.654-809.655-809.656-809.657-809.658-809.659-809.660-809.661-809.662-809.663-809.664-809.665-809.666-809.667-809.668-809.669-809.670-809.671-809.672-809.673-809.674-809.675-809.676-809.677-809.678-809.679-809.680-809.681-809.682-809.683-809.684-809.685-809.686-809.687-809.688-809.689-809.690-809.691-809.692-809.693-809.694-809.695-809.696-809.697-809.698-809.699-809.700-809.701-809.702-809.703-809.704-809.705-809.706-809.707-809.708-809.709-809.710-809.711-809.712-809.713-809.714-809.715-809.716-809.717-809.718-809.719-809.720-809.721-809.722-809.723-809.724-809.725-809.726-809.727-809.728-809.729-809.730-809.731-809.732-809.733-809.734-809.735-809.736-809.737-809.738-809.739-809.740-809.741-809.742-809.743-809.744-809.745-809.746-809.747-809.748-809.749-809.750-809.751-809.752-809.753-809.754-809.755-809.756-809.757-809.758-809.759-809.760-809.761-809.762-809.763-809.764-809.765-809.766-809.767-809.768-809.769-809.770-809.771-809.772-809.773-809.774-809.775-809.776-809.777-809.778-809.779-809.780-809.781-809.782-809.783-809.784-809.785-809.786-809.787-809.788-809.789-809.790-809.791-809.792-809.793-809.794-809.795-809.796-809.797-809.798-809.799-809.800-809.801-809.802-809.803-809.804-809.805-809.806-809.807-809.808-809.809-809.810-809.811-809.812-809.813-809.814-809.815-809.816-809.817-809.818-809.819-809.820-809.821-809.822-809.823-809.824-809.825-809.826-809.827-809.828-809.829-809.830-809.831-809.832-809.833-809.834-809.835-809.836-809.837-809.838-809.839-809.840-809.841-809.842-809.843-809.844-809.845-809.846-809.847-809.848-809.849-809.850-809.851-809.852-809.853-809.854-809.855-809.856-809.857-809.858-809.859-809.860-809.861-809.862-809.863-809.864-809.865-809.866-809.867-809.868-809.869-809.870-809.871-809.872-809.873-809.874-809.875-809.876-809.877-809.878-809.879-809.880-809.881-809.882-809.883-809.884-809.885-809.886-809.887-809.888-809.889-809.890-809.891-809.892-809.893-809.894-809.895-809.896-809.897-809.898-809.899-809.900-809.901-809.902-809.903-809.904-809.905-809.906-809.907-809.908-809.909-809.910-809.911-809.912-809.913-809.914-809.915-809.916-809.917-809.918-809.919-809.920-809.921-809.922-809.923-809.924-809.925-809.926-809.927-809.928-809.929-809.930-809.931-809.932-809.933-809.934-809.935-809.936-809.937-809.938-809.939-809.940-809.941-809.942-809.943-809.944-809.945-809.946-809.947-809.948-809.949-809.950-809.951-809.952-809.953-809.954-809.955-809.956-809.957-809.958-809.959-809.960-809.961-809.962-809.963-809.964-809.965-809.966-809.967-809.968-809.969-809.970-809.971-809.972-809.973-809.974-809.975-809.976-809.977-809.978-809.979-809.980-809.981-809.982-809.983-809.984-809.985-809.986-809.987-809.988-809.989-809.990-809.991-809.992-809.993-809.994-809.995-809.996-809.997-809.998-809.999-809.1000

(Source: Repealed at 23 Ill. Reg. 68 42, effective JUL 1 1990.)

SUBPART J: UNIFORM PROGRAM

Section 809.910 Uniform State Hazardous Waste Transportation Registration and Permit Program

- a) Beginning July 1, 1998, no person may transport offsite any hazardous waste (or mixture of hazardous and nonhazardous waste) into, through, or within Illinois, without registering and obtaining a permit under the Uniform Program, or in violation of any permit condition for any permit required under this subsection and issued by the Agency or by any participating state.

1) A transporter with its principal place of business in Illinois shall obtain a uniform registration and a uniform permit from the Agency.

2) A transporter with its principal place of business in another state shall designate another participating state in the Uniform Program as its base state and shall obtain a uniform registration from the base state, if the base state requires registration, and shall obtain a uniform permit from the base state before transporting hazardous waste in Illinois.

b) Small quantity generators of 100 kilograms (220 pounds) or less per month are exempt from the uniform registration and uniform permit requirements of this Part, except generators of acute hazardous waste as specified in 35 Ill. Adm. Code 721.105(e).

c) A hazardous waste transporter shall comply with all the provisions of 49 CFR 171, 172, 177, 178, 180, 383, 387, and 390-397, incorporated by

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reference in Section 809.104, if the hazardous waste is transported in Illinois.

(Source: Added 1st 23 Ill. Reg. 6842, effective JUL 1 1999)

Section 809.911 Application for a Uniform Permit

a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform permit from the Agency by completing Part II of the uniform application, provided by the Agency. The application form, provided by the Agency, will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform permit.

b) The following procedures apply to the submittal of an application for a uniform permit:

1) An application for a uniform permit is considered filed when the Agency receives a completed application on the form provided by the Agency and with the correct fee, set forth in Sections 809.913 and 809.915.

2) A completed application must include all information required in Part II of the uniform application.

3) The Agency will notify the transporter in writing within 90 days after receipt of the application if the application is incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.

4) If the Agency is unable to take final action (which includes granting or denying the uniform permit as requested, or by granting the uniform permit with conditions) within 90 days after the date the completed application is filed, the Agency will issue a Letter of Filing to the applicant. Letters of Filing will include the following:

A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program;

B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program, and

C) An expiration date 180 days from the date the Letter of Filing is issued.

5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform permit granted for the three year permit period, commencing on the day the completed application was filed with the Agency.

c) The uniform permit will be valid for a period of three years unless:

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1) a transporter fails to renew its annual uniform registration; or

2) there is a change in the transporter's operations during the permitting period (i.e., a transporter with a Part I uniform permit begins transporting hazardous waste in a state that requires a Part III disclosure).

d) If the transporter's operations change during the permitting period, the transporter shall submit a new uniform permit application (Part II) detailing the changes. The Agency will review the changes in accordance with the criteria and procedures outlined in the Alliance for Uniform HazMat Transportation Procedures, incorporated by reference in Section 809.104(d), for evaluation of the application. The Agency will send all denial notices and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final notices may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

e) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.

f) (Source: Added at 23 Ill. Reg. 6842, effective JUL 1 1999)

Section 809.912 Application for Uniform Registration

a) Hazardous waste transporters whose base state is Illinois shall obtain a uniform registration from the Agency by completing Part I of the uniform application, provided by the Agency, during the first year of each three-year permitting period. A hazardous waste transporter whose base state is Illinois shall renew the uniform registration from the Agency by completing Parts I and IV of the uniform application, provided by the Agency, during the second and third years. The application form will be identical in scope, coverage, and content to the uniform procedures and forms required by the Uniform Program. If the application is complete and granting it will not violate the Act or Board regulations, the Agency will grant the uniform registration. The following procedures apply to the submittal of an application for a uniform registration:

1) An application for uniform registration is considered filed when the Agency receives a completed application on the forms provided by the Agency and with the correct fees, set forth in Sections 809.914 and 809.915.

2) A completed application must include all information required in Part I of the uniform application during the first year and all information required in Parts I and IV during the second and

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third years.

3) The Agency will notify the transporter in writing within 90 days after receipt of the application if the application is incomplete. If incomplete, the application will not be reviewed, and a copy of it will be returned to the transporter with instructions for resubmittal.

4) If the Agency is unable to take final action (which includes granting or denying the uniform registration as requested, or by granting the uniform registration with conditions) within 90 days after the date the completed application is filed, the Agency will issue a Letter of Filing to the applicant. Letters of Filing will include the following:

- A) A statement indicating that the applicant is in compliance with the application requirements of the Uniform Program;
- B) A statement that law enforcement officials in all participating jurisdictions shall honor Letters of Filing as temporary evidence of compliance with the Uniform Program; and
- C) An expiration date 180 days from the date the Letter of Filing is issued.

5) On or before the expiration of any Letter of Filing the Agency will take final action on the completed application or the applicant may deem the uniform registration granted for the one year registration period, commencing on the day the completed application was filed with the Agency.

c) The uniform registration is valid for a period of one year and must be renewed annually.

d) The Agency will send all Denials and applications granted with conditions by U.S. Registered or Certified Mail, return receipt requested. All other final Agency decisions may be sent by regular U.S. mail. The Agency will be deemed to have taken final action on the date that the notice of final action is mailed. Within 35 days after the Agency's final action, the applicant may appeal the Agency's decision to the Board in the manner provided for the review of permits in Section 40 of the Act.

e) The Agency may undertake such investigations and request the applicant to furnish such proof as it deems necessary to verify the information and statements made in the application.

(Source: Added at 23 Ill. Reg. 6842 = z, effective JUL 1 1990)

Section 809.913 Payment of Processing and Audit Fees

Beginning July 1, 1998, and annually thereafter, each transporter designating Illinois as its base state must pay a \$250 processing and audit fee for administering the uniform registration and permit program as set forth in Section 22.2 of the Act.

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(Source: Added JUL 1 1999 at 23 Ill. Reg. 6842 = z, effective JUL 1 1999)

Section 809.914 Payment of Apportioned Mile Fees

a) Beginning July 1, 1998, and annually thereafter, all transporters whose base state is Illinois shall pay registration fees to the Agency for apportioned miles for all states that are participating in the uniform registration program and in which the transporter hauls hazardous waste. The Agency shall transmit to other participating states the registration fees collected each calendar quarter on behalf of the other participating states within 30 days after the last day of the calendar quarter. A transmittal report will accompany each payment and will summarize the fees collected and list the transporters from which the fees were collected. The level of hazardous material transportation activity within a state should be calculated using the instructions in the uniform application and should be based on two factors:

- 1) The percentage of mileage in the state; and
- 2) The percentage of the transporter's total activity that involves the transport of hazardous wastes.

b) For Illinois, the registration fee should be calculated by multiplying the percentage of Illinois transportation by the percentage of hazardous waste transportation multiplied by the total number of vehicles the transporter operates multiplied by the \$20 registration fee set forth in Section 22.2 of the Act.

c) A transporter should determine its percentage of Illinois transportation by dividing the number of miles it traveled in Illinois during the previous year by the number of miles it traveled nationwide during the previous year. If a transporter operates only in Illinois, it should use 100 percent of the miles traveled as its percentage of Illinois transportation. A transporter may separately calculate fees payable for each fleet the transporter operates.

d) A transporter shall determine its percentage of hazardous waste transportation by using a method based on general percentage ranges. A transporter shall determine its percentage of hazardous waste transportation as follows:

- 1) For less-than-truckload shipments, the transporter should divide the weight of the transporter's hazardous waste shipments transported during the previous year by the total weight of all shipments transported during the previous year.
- 2) For the truckload shipments, the transporter should divide the number of shipments transported during the previous year for which placarding, marking, or manifesting was required by the Code of Federal Regulations, Title 49, Part 172, by the total number of all shipments transported during the previous year.
- 3) A transporter that transports both truckload and less-than-truckload shipments of hazardous waste should determine

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its percentage of hazardous waste transportation by calculating the percentage of business that is hazardous waste transportation on a proportional basis with the percentage of business that is not hazardous waste transportation.

- 4) A transporter may use data from its most recent complete fiscal year or the most recent complete calendar year in calculating the percentages required in this Subpart for transportation conducted during the previous year. If the applicant elects to change the reporting year in a subsequent application, the applicant must inform the Agency of its intention in writing.

(Source: Added at 23 Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.915 Submittal of Fees

Any person who submits an application for a uniform registration and uniform permit to the Agency must determine the total fees owed in accordance with the instructions in the Final Report: Uniform Program Pilot Project, incorporated by reference in Section 809.104, the Act, and Sections 809.913 and 809.914 of this Part.

- a) The transporter must attach or enclose with the application a certified check, cashier's check or money order payable to the Treasurer, State of Illinois in the appropriate amount.
- b) When an application is denied, any fees submitted with the application will be non-refundable. Any subsequent refiling of the application will be considered a new application for which an application fee must be included in accordance with subsection (a) of this Section.
- c) When the Agency rejects an application because it is incomplete, any fees submitted will be non-refundable. The applicant can receive credit for the payment with a resubmitted application if the resubmittal is complete and returned to the Agency within 30 days after the initial date-stamped rejection.

(Source: Added at 23 Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.916 Previously Permitted Transporters

- a) From July 1, 1998 until June 30, 1999, a transporter who previously obtained an Illinois Special Waste Transporter Permit is not required to obtain a uniform permit or uniform registration under this Subpart for the transportation of hazardous waste in Illinois until the transporter's special waste permit expires.

- b) Transporters with permits expiring July 1, 1998 through June 30, 1999, and whose base state is Illinois shall submit uniform registration and permit applications to the Agency and should apply 90 days in advance of the expiration date of their current permit. If the Agency cannot

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timely review the uniform registration and permit applications within 90 days, the current Illinois Special Waste Transportation permit will be extended by operation of law for 30 days, or until the Agency takes final action on its applications, whichever occurs first. However, if the transporter fails to submit its new uniform registration and uniform permit applications 90 days in advance of the expiration of the current permit, the current Illinois Special Waste Transporter permit will expire on the expiration date indicated in the permit.

- c) Beginning July 1, 1998, all Uniform Program permits issued by other states that have not expired or been revoked will be acceptable for the transportation of hazardous waste in Illinois.

(Source: Added JUL 1 1999 ²³ Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.917 Uniform Registration and Uniform Permit Conditions

- a) When reviewing uniform registrations or uniform permits, the Agency may impose such conditions as are necessary to satisfy the requirements of the Uniform Program set forth in this Part.
- b) The applicant may deem any conditions imposed by the Agency as a denial of the uniform registration or uniform permit for purposes of review pursuant to Section 40 of the Act.

(Source: Added JUL 1 1999 ²³ Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.918 Uniform Registration and Uniform Permit Revision

Changes to the uniform registration or uniform permit, or the applications issued pursuant to this Part can only be made by the U.S. Secretary of Transportation or other entity authorized pursuant to Federal law. The Agency will revise any uniform registration and uniform permit issued under this Part to conform with any such changes and notify the permittee in writing. Failure of the Agency to issue a revised uniform registration or uniform permit is not a defense to a violation of any changed permit condition.

(Source: Added at 23 Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.919 Transfer of Uniform Registration and Uniform Permits

No uniform registration and permit is transferable from one person to another.

(Source: Added JUL 1 1999 ²³ Ill. Reg. 68 42 = 2, effective JUL 1 1999.)

Section 809.920 Audits and Uniform Registration and Uniform Permit Revocation

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Section 809.APPENDIX A Old Rule Numbers Referenced (Repealed)

the following table is provided to aid in referencing old Board rule numbers to section numbers pursuant to codification:

Chapter-92	Special-Waste	Hauling	35-III-Adm-Code-889
Rule-101			Section-889-101
Rule-102			Section-889-102
Rule-103			Section-889-103
Rule-201			Section-889-201
Rule-202			Section-889-202
Rule-203			Section-889-203
Rule-204			Section-889-204
Rule-205			Section-889-205
Rule-206			Section-889-206
Rule-207			Section-889-207
Rule-208			Section-889-208
Rule-209			Section-889-209
Rule-210			Section-889-210
Rule-211			Section-889-211
Rule-301			Section-889-301
Rule-302			Section-889-302
Rule-401			Section-889-401
Rule-402			Section-889-402
Rule-501			Section-889-501
Rule-502			Section-889-502
Rule-601			Section-889-601
Rule-602			Section-889-602
Rule-603			Section-889-603
Rule-604			Section-889-604
Rule-605			Section-889-605
Rule-906			Section-889-906

(Source: Repealed at 1989, Ill. Reg. 68 42 effective

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The Agency will conduct audits to ensure that the transporter is accurately reporting its hazardous waste transportation activity. If a transporter violates any of the uniform permit conditions or fails to comply with any provisions of the Act or with any Board regulation, sanctions may be imposed as provided in the Act, including revocation of the uniform permit and uniform registration. As part of the audit process the Agency is authorized, within constitutional limitations, to do the following:

- Require transporters to allow Agency representatives to inspect or examine any commercial vehicle or facility operated by a transporter who transports hazardous waste in this State;
- Require transporters to produce papers, books, records, documents, or other evidentiary material necessary to determine if a transporter is accurately reporting its hazardous waste transportation operations and is otherwise complying with the Uniform Program; and
- Require transporters to allow Agency representatives to conduct investigations and audits necessary to determine if a transporter is entitled to a uniform permit or to make a suspension or revocation determination.

(Source: Amended at 23 Ill. Reg. 68 42 effective

Section 809.921 Permit No Defense

The existence of a uniform permit or uniform registration under this part does not provide the permittee with a defense to a violation of the Act or Board regulations, except for hauling hazardous waste without a uniform permit or uniform registration.

(Source: Amended at 23 Ill. Reg. 68 42 effective

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- 1) Heading of the Part: Special Waste Classifications
- 2) Code Citation: 35 Ill. Adm. Code 808
- 3) Section Numbers: Adopted Action:
808.121 Amended
- 4) Statutory Authority: 415 ILCS 5/22, 22.01, 22.2, and 27
- 5) Effective Date of Amendments: July 1, 1999
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Do these amendments contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: January 4, 1999, 23 Ill. Reg. 78
- 10) Has JCAR issued a Statement of Objections to these amendments? No
- 11) Differences between Proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes
- 13) Will these amendments replace an emergency rule currently in effect? No
- 14) Are there any amendments pending on this Part? No

- 15) Summary and Purpose of Amendments: A complete description of this rulemaking is included in the Board's May 20, 1999 opinion and order in docket #98-29, which is available from the address below. This docket amends 35 Ill. Adm. Code Parts 808, 809, and 811.

Prior to the early 1990s, transporters of hazardous waste were subject to numerous hazardous waste transporter regulations at the state level. Despite the similarity of the regulations, interstate transporters had to apply for and carry different permits in different states and pay the fees in those states. In 1990 and 1994, Congress enacted legislation creating a Uniform Program to remedy this situation. The adopted amendments to Part 809 adopt the Uniform Program. The Uniform Program provides that hazardous waste transporter need only apply to one state for a permit and pay a permit fee to the one state. Once the transporter is permitted in one state, the transporter is automatically permitted in every other state

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that has adopted the Uniform Program. In addition to the permit fee, the transporter pays a fee for each vehicle. In Illinois, the Illinois Environmental Protection Agency will apportion that fee to other states based on the number of miles a vehicle travels in a state and the percentage of the vehicle's total activity that involves hazardous waste. The enclosed proposal makes minor changes to Illinois' existing program for the transportation of nonhazardous special waste so that the nonhazardous special waste program and the Uniform Program are complementary.

The bulk of the new rules provided for in the Act are located in Part 809. Previously in Part 809, Section 808.121 of Part 808, and Section 811.403 of Part 811, the term "hauler" had been used to denote those who transport special waste. The term "transporter" is now used. All references to the term "hauler" in Section 808.121 and Section 811.403 have been replaced by "transporter".

In addition, Part 809 Subpart F has been repealed and replaced by amendments to Part 809 Subpart E. A reference to Subpart F in Section 811.402 has been changed to Subpart E. Changes in the table of contents to Part 811 reflect the recently-adopted Board rule R99-1.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joel Sternstein
100 W. Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, Illinois 60601
(312) 814-3665

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address above. Please refer to Docket number R98-29.

The full text of the adopted amendments begins on the next page:

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TITLE 35: ENVIRONMENTAL PROTECTION

SUBTITLE G: WASTE DISPOSAL

CHAPTER I: POLLUTION CONTROL BOARD

SUBCHAPTER I: SOLID WASTE AND SPECIAL WASTE HAULING

PART 808

SPECIAL WASTE CLASSIFICATIONS

SUBPART A: GENERAL PROVISIONS

Section
808.100 Purpose, Scope and Applicability
808.101 Transitional Rule
808.110 Definitions
808.111 Incorporations by Reference
808.121 Generator Obligations
808.122 Manifests
808.123 Small Quantity Generators

SUBPART B: CLASSES OF SPECIAL WASTE

Section
808.240 Special Waste Classes
808.241 Default Classification of Special Wastes
808.242 Special Handling Waste
808.243 Wastes Categorized by Source
808.244 Wastes Categorized by Characteristics
808.245 Classification of Wastes

SUBPART C: CRITERIA AND DATA REQUIREMENTS

Section
808.300 Introduction
808.301 Degree of Hazard Determination by Computer
808.302 Data Base and Bioassay Procedures

SUBPART D: REQUEST FOR WASTE CLASSIFICATION

Section
808.400 Introduction
808.401 Application Forms
808.402 Application for Waste Classification
808.410 Physical and Chemical Analysis
808.411 Significant Trace Constituents
808.412 Common Names
808.413 Wastestream Description
808.420 Quality Assurance Plan
808.430 Degree of Hazard Data

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Toxicological Testing

SUBPART E: REVIEW OF CLASSIFICATION REQUESTS

Section
808.501 Order of Requesting Information
808.502 Completeness
808.503 Standard for Classification

SUBPART F: WASTESTREAM CLASSIFICATION DETERMINATIONS

Section
808.520 Time for Agency Action
808.521 Conditions of Wastestream Classification
808.522 Final Agency Action

SUBPART G: MODIFICATION, APPEAL AND ENFORCEMENT

Section
808.541 Request for Modification
808.542 Appeal
808.543 Effect of Classification
808.544 Enforcement
808.545 Modification

SUBPART H: CATEGORICAL AND CHARACTERISTIC WASTES

Section
808.600 Introduction
APPENDIX A Assignment of Special Waste to Classes
APPENDIX B Toxicity Hazard

AUTHORITY: Implementing Sections 21, 22, 22.01 and 22.9, and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/21, 22, 22.01, and 22.9].

SOURCE: Adopted in R89-13A at 14 Ill. Reg. 14043, effective August 15, 1990; amended in R98-29 at 23 Ill. Reg. 6878-2 effective JUL 1 1999.

SUBPART A: GENERAL PROVISIONS

Section 808.121 Generator Obligations

- a) Each person who generates waste shall determine whether the waste is a special waste.
BOARD NOTE: 35 Ill. Adm. Code 722 requires the person to also determine if the waste is a hazardous waste.

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b) No person shall deliver special waste to a transporter ~~hewer~~ unless the waste is accompanied by a manifest as specified in Section 808.122, and the transporter ~~hewer~~ has a special waste hauling permit issued pursuant to 35 Ill. Adm. Code 809. The following are exceptions to this prohibition:

- 1) The person is subject to the small quantity generator exemption of Section 806.123.
- 2) The ~~transporter~~ ~~hewer~~ and waste are subject to a transporter ~~hewer~~ exemption under 35 Ill. Adm. Code 809.211.
- 3) The Agency has determined pursuant to this Part that the waste is not a special waste.
- 4) The waste consists of municipal water or wastewater treatment plant sludge regulated under a sludge management plan approved by the Agency pursuant to 35 Ill. Adm. Code 309.208.

c) No person shall cause, threaten or allow the treatment, storage or disposal of special waste in Illinois except:

- 1) At a facility permitted or otherwise authorized to manage the special waste pursuant to 35 Ill. Adm. Code 703 or 807 (Sections 21(d) and (e) of the Act); or
 - 2) At a facility owned and operated by such person and subject to the on-site disposal exemption of Section 21(d) of the Act (Section 21(d) of the Act).
- d) No person shall deliver special waste to a transporter ~~hewer~~ or a permitted facility without a supplemental wastewater permit.
- e) No person shall deliver to a transporter ~~hewer~~ or permitted facility special waste with a wastewater identification number unless the waste conforms with the wastewater description in the wastewater classification determination.

(Source: Amended at 23 Ill. Reg. 6875, effective JUL 1 1999)

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Standards for New Solid Waste Landfills

2) Code Citation: 35 Ill. Adm. Code 811

3) Section Numbers: Adopted Action:
811.402 Amended
811.403 Amended

4) Statutory Authority: 415 ILCS 5/22, 22.01, 22.2, and 27

5) Effective Date of Amendments: July 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Do these amendments contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register: January 4, 1999, 23 Ill. Reg. 116.

10) Has JCAR issued a Statement of Objections to these amendments? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements letter issued by JCAR? Yes

13) Will these amendments replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Amendments: A complete description of this rulemaking is included in the Board's May 20, 1999 opinion and order in docket R98-29, which is available from the address below. This docket amends 35 Ill. Adm. Code Parts 808, 809, and 811.

Prior to the early 1990s, transporters of hazardous waste were subject to numerous hazardous waste regulation regulations at the state level. Despite the similarity of the regulations, interstate transporters had to apply for and carry different permits in different states and pay the fees in those states. In 1990 and 1994, Congress enacted legislation creating a Uniform Program to remedy this situation. The adopted amendments to Part 809 adopt the Uniform Program. The Uniform Program provides that a hazardous waste transporter need only apply to one state for a permit and pay a permit fee to the one state. Once the transporter is permitted in

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

one state, the transporter is automatically permitted in every other state that has adopted the Uniform Program. In addition to the permit fee, the transporter pays a fee for each vehicle. In Illinois, the Illinois Environmental Protection Agency will apportion that fee to other states based on the number of miles a vehicle travels in a state and the percentage of the vehicle's total activity that involves hazardous waste. The enclosed proposal makes minor changes to Illinois' existing program for the transportation of nonhazardous special waste so that the nonhazardous special waste program and the Uniform Program are complementary.

The bulk of the new rules provided for in the Act are located in Part 809. Previously in Part 809, Section 808.121 of Part 808, and Section 811.403 of Part 811, the term "hauler" had been used to denote those who transport special waste. The term "transporter" is now used. All references to the term "hauler" in Section 808.121 and Section 811.403 have been replaced by "transporter".

In addition, Part 809 Subpart F has been repealed and replaced by amendments to Part 809 Subpart E. A reference to Subpart F in Section 811.402 has been changed to Subpart E. Changes in the table of contents to Part 811 reflect the recently-adopted Board rule R99-1.

- 16) Information and questions regarding these adopted amendments shall be directed to:

Joel Sternstein
100 W. Randolph Street
James R. Thompson Center
Suite 11-500
Chicago, Illinois 60601
(312) 814-3665

Copies of the Board's opinions and orders may be requested from the Clerk of the Board at the address above. Please refer to Docket number R98-29.

The full text of the adopted amendments begins on the next page:

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE G: WASTE DISPOSAL
CHAPTER I: POLLUTION CONTROL BOARD
SUBCHAPTER i: SOLID WASTE AND SPECIAL WASTE HAULING

PART 811

STANDARDS FOR NEW SOLID WASTE LANDFILLS

SUBPART A: GENERAL STANDARDS FOR ALL LANDFILLS

Section	Scope and Applicability
811.101	Location Standards
811.102	Surface Water Drainage
811.103	Survey Controls
811.104	Compaction
811.105	Daily Cover
811.106	Operating Standards
811.107	Salvaging
811.108	Boundary Control
811.109	Closure and Written Closure Plan
811.110	Postclosure Maintenance
811.111	

SUBPART B: INERT WASTE LANDFILLS

Section	Scope and Applicability
811.201	Determination of Contaminated Leachate
811.202	Design Period
811.203	Final Cover
811.204	Final Slope and Stabilization
811.205	Leachate Sampling
811.206	Load Checking
811.207	

SUBPART C: PUTRESCIBLE AND CHEMICAL WASTE LANDFILLS

Section	Scope and Applicability
811.301	Facility Location
811.302	Design Period
811.303	Foundation and Mass Stability Analysis
811.304	Foundation Construction
811.305	Liner Systems
811.306	Leachate Drainage System
811.307	Leachate Collection System
811.308	Leachate Treatment and Disposal System
811.309	Landfill Gas Monitoring
811.310	Landfill Gas Management System
811.311	

POLLUTION CONTROL BOARD

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811.312 Landfill Gas Processing and Disposal System
 811.313 Intermediate Cover
 811.314 Final Cover System
 811.315 Hydrogeological Site Investigations
 811.316 Plugging and Sealing of Drill Holes
 811.317 Groundwater Impact Assessment
 811.318 Design, Construction, and Operation of Groundwater Monitoring Systems
 811.319 Groundwater Monitoring Programs
 811.320 Groundwater Quality Standards
 811.321 Waste Placement
 811.322 Final Slope and Stabilization
 811.323 Load Checking Program
 811.324 Corrective Action Measures for MSWLF Units
 811.325 Selection of remedy for MSWLF Units
 811.326 Implementation of the corrective action program at MSWLF Units

SUBPART D: MANAGEMENT OF SPECIAL WASTES AT LANDFILLS

Section
 811.401 Scope and Applicability
 811.402 Notice to Generators and Transporters
 811.403 Special Waste Manifests
 811.404 Identification Record
 811.405 Recordkeeping Requirements
 811.406 Procedures for Excluding Regulated Hazardous Wastes

SUBPART E: CONSTRUCTION QUALITY ASSURANCE PROGRAMS

Section
 811.501 Scope and Applicability
 811.502 Duties and Qualifications of Key Personnel
 811.503 Inspection Activities
 811.504 Sampling Requirements
 811.505 Documentation
 811.506 Foundations and Subbases
 811.507 Compacted Earth Liners
 811.508 Geomembranes
 811.509 Leachate Collection Systems

SUBPART G: FINANCIAL ASSURANCE

Section
 811.700 Scope, Applicability and Definitions
 811.701 Upgrading Financial Assurance
 811.702 Release of Financial Institution
 811.703 Application of Proceeds and Appeals
 811.704 Closure and Postclosure Care Cost Estimates
 811.705 Revision of Cost Estimate

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811.706 Mechanisms for Financial Assurance
 811.707 Use of Multiple Financial Mechanisms
 811.708 Use of a Financial Mechanism for Multiple Sites
 811.709 Trust Fund for Unrelated Sites
 811.710 Surety Fund
 811.711 Surety Bond Guaranteeing Payment
 811.712 Surety Bond Guaranteeing Performance
 811.713 Letter of Credit
 811.714 Closure Insurance
 811.715 Self-Insurance for Non-commercial Sites
 811.716 Local Government Financial Test
 811.717 Local Government Guarantee
 811.718 Discounting
 811.719 Corporate Financial Test
 811.720 Corporate Guarantees

APPENDIX A Financial Assurance Forms

ILLUSTRATION A Trust Agreement
 ILLUSTRATION B Certificate of Acknowledgment
 ILLUSTRATION C Forfeiture Bond
 ILLUSTRATION D Performance Bond
 ILLUSTRATION E Irrevocable Standby Letter of Credit
 ILLUSTRATION F Certificate of Insurance for Closure and/or Postclosure Care
 ILLUSTRATION G Operator's Bond Without Surety
 ILLUSTRATION H Operator's Bond With Parent Surety
 ILLUSTRATION I Letter from Chief Financial Officer
 APPENDIX B Section-by-Section correlation between the Standards of the RCRA Subtitle D MSWLF regulations and the Board's nonhazardous waste landfill regulations.

AUTHORITY: Implementing Sections 5, 21, 21.1, 22, 22.17 and 28.1 and authorized by Section 27 of the Environmental Protection Act [415 ILCS 5/5, 21, 21.1, 22, 22.17, 28.1, and 27].

SOURCE: Adopted in 888-7 at 14 Ill. Reg. 15861, effective September 18, 1990; amended in 892-19 at 17 Ill. Reg. 12413, effective July 19, 1993; amended in 893-10 at 18 Ill. Reg. 1308, effective January 13, 1994; expedited correction at 18 Ill. Reg. 7504, effective July 19, 1993; amended in 890-26 at 18 Ill. Reg. 12481, effective August 1, 1994; amended in 895-13 at 19 Ill. Reg. 12255, effective August 15, 1995; amended in 896-1 at 20 Ill. Reg. 12000, effective August 15, 1996; amended in 897-20 at 21 Ill. Reg. 15831, effective November 25, 1997; amended in 898-9 at 22 Ill. Reg. 11491, effective June 23, 1998; amended in 899-1 at 23 Ill. Reg. 2794, effective February 1, 1999; amended in 898-29 at 23 Ill. Reg. 6880, effective JUL 1 1999.

NOTE: In this Part, unless the context clearly indicates otherwise, superscript numbers or letters are denoted by parentheses; subscript are

POLLUTION CONTROL BOARD

NOTICE OF ADOPTED AMENDMENTS

denoted by brackets.

SUPPORT D: MANAGEMENT OF SPECIAL WASTES AT LANDELLS

Section 811.402 Notice to Generators and Transporters

A prominent sign at the entrance to each solid waste management facility shall state that disposal of hazardous waste is prohibited and, if it is a facility permitted by the Agency to accept special wastes pursuant to 35 Ill. Adm. Code 808, also state that special waste will be accepted only if accompanied by an identification record and a manifest, unless such waste is exempted from the manifest requirements of this Part and 35 Ill. Adm. Code 809-Subpart B.

(Source: Amended at 23 Ill. Reg. 6880, effective

JUL 1 1999)

Section 811.403 Special Waste Manifests

a) Each special waste accepted for disposal at a permitted solid waste management facility shall be accompanied by a manifest containing the following information, unless such special waste is disposed at an onsite facility and exempted, in accordance with 35 Ill. Adm. Code 809.311 p22, from the manifest requirement:

- 1) The name of the generator of the special waste;
 - 2) When and where the special waste was generated;
 - 3) The name of the special waste transporter ~~hauler~~;
 - 4) The name of the solid waste management facility to which it is shipped as a final destination point;
 - 5) The date of delivery;
 - 6) The name, waste stream permit number (if applicable) and quantity of special waste delivered to the transporter ~~hauler~~;
 - 7) The signature of the person who delivered the special waste to the special waste transporter ~~hauler~~, acknowledging such delivery;
 - 8) The signature of the special waste transporter ~~hauler~~, acknowledging receipt of the special wastes; and
 - 9) The signature of the person who accepted the special waste at its final destination, acknowledging acceptance of the special waste.
- b) A permitted facility that accepts special waste must be designated on the manifest as the final destination point. Any subsequent delivery of the special waste or any portion or product thereof to a special waste transporter ~~hauler~~ shall be conducted under a transportation record initiated by the permitted solid waste management facility.
- c) Distribution of Manifests After Delivery
- 1) The receiving solid waste management facility, shall accept special waste only if accompanied by three copies of the manifest from the transporter ~~hauler~~. The transporter ~~hauler~~ shall retain one copy.

POLLUTION CONTROL BOARD

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2) The receiving solid waste management facility shall:

- A) Send one copy of the completed transportation record to the person who delivered the special waste to the special waste transporter ~~hauler~~ (usually the generator, or another special waste management facility);
 - B) Send one copy of each signed manifest to the Agency in accordance with the requirements of 35 Ill. Adm. Code 809; and
 - C) Send information on rejected loads to the Agency in a quarterly report.
- d) Every person who delivers special waste to a special waste transporter ~~hauler~~, every person who accepts special waste from a special waste transporter ~~hauler~~ and every special waste transporter ~~hauler~~ shall retain a copy of the special waste transportation record as a of each special waste transaction. These copies shall be retained for three years, and shall be made available at reasonable times for inspection and photocopying by the Agency pursuant to Section 4(d) of the Act.

(Source: Amended at 23 Ill. Reg. 6880, effective

JUL 1 1999)

PROCUREMENT POLICY BOARD
NOTICE OF ADOPTED RULES

1) Heading of the Part: Freedom of Information

2) Code Citation: 2 Ill. Adm. Code 3001

3) Section Numbers: Adopted Action:

3000.10 New
3000.20 New
3000.100 New
3000.110 New
3000.200 New
3000.210 New
3000.300 New
3000.310 New
3000.400 New
3000.410 New
3000.420 New
Appendix A New

4) Statutory Authority: The Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500]

5) Effective Date of Rulemaking: June 1, 1999

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal Published in Illinois Register:

February 5, 1999, 23, Ill. Reg. 1473

10) Has JCAR issued a Statement of Objections to these rules? No

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and Purpose of Rulemaking: Operating Rules for the Procurement Policy Board

PROCUREMENT POLICY BOARD
NOTICE OF ADOPTED RULES

16) Information and questions regarding these adopted rules shall be directed to:

Matt Brown, Senior Analyst
511 West Capitol, Suite 102
Springfield IL 62704
217/785-3988

The full text of the adopted rules begins on the next page:

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE B: MISCELLANEOUS STATE AGENCIES
 CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3001
 FREEDOM OF INFORMATION

SUBPART A: INTRODUCTION

Section
 3001.100 Summary and Purpose
 3001.200 Definitions

SUBPART B: REQUEST PROCEDURES

Section
 3001.100 Person to Whom Requests are Submitted
 3001.110 Form and Content of Requests

SUBPART C: PROCEDURES FOR FREEDOM OF INFORMATION
 OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section
 3001.200 Timeline for Freedom of Information Officer's Response
 3001.210 Types of Responses to Requests for Public Records

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section
 3001.300 Appeal of a Denial
 3001.310 Executive Director's Response to Appeal

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS
 TO REQUESTORS

Section
 3001.400 Copies of Public Records
 3001.410 Inspection of Records
 3001.420 General Materials Available from the Office of the Board
 APPENDIX A Fee Schedule for Duplication of Public Records

AUTHORITY: Implementing and authorized by the Freedom of Information Act [5 ILCS 140] and Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Adopted at 23 Ill. Reg. effective

6887

JUN 1 1999

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

SUBPART A: INTRODUCTION

Section 3001.10 Summary and Purpose

- a) This Part is established to further the policy of the State of Illinois whereby all persons are entitled to full and complete information regarding the affairs of government and the official acts and policies of those who represent them as public officials and public employees consistent with the terms of the Freedom of Information Act [5 ILCS 140/1]. The purpose of this Part is to support the policy of providing public access to the public records in the possession of the Procurement Policy Board (Board) while, at the same time, protecting legitimate privacy interests and maintaining administrative efficiency.
- b) This Part creates a procedure by which the public may request and obtain public records. Therefore, it is being filed in accordance with Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15] and Section 3(g) of the Freedom of Information Act [5 ILCS 140/3(g)].

Section 3001.20 Definitions

- a) Terms used in this Part shall have the same meaning as in Section 2 of the Freedom of Information Act [5 ILCS 140/2].
- b) "FOIA" means the Freedom of Information Act [5 ILCS 140].
- c) "Freedom of Information Officer" means the individual responsible for receiving and responding to requests for public records.
- d) "Requestor" means a person who submits a request for public records in accordance with this Part.

SUBPART B: REQUEST PROCEDURES

Section 3001.100 Person to Whom Requests are Submitted

Requests for public records shall be submitted to:

Freedom of Information Officer
 Procurement Policy Board
 511 West Capitol, Suite 102
 Springfield IL 62704

Section 3001.110 Form and Content of Requests

- a) Requests for public records shall be in writing.
- b) The requestor shall provide the following information in a request for public records:
- 1) The requestor's full name, address and telephone number.
 - 2) A brief description of the public records sought, being as

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

specific as possible.

- 3) A statement of whether the request is for inspection of public records, copies of public records, or both.
- 4) A statement of whether the records need to be certified.

SUBPART C: PROCEDURES FOR FREEDOM OF INFORMATION OFFICER'S RESPONSE TO REQUESTS FOR PUBLIC RECORDS

Section 3001.200 Timeline for Freedom of Information Officer's Response

- a) The Freedom of Information Officer shall respond to a written request for public records within 7 working days after the receipt of such request pursuant to Section 3(c) of FOIA.
- b) The Freedom of Information Officer will either comply with or deny a written request for public records within 7 working days after its receipt. The Freedom of Information Officer may extend the 7 day period an additional 7 working days for any of the reasons specified in Section 3(d)(i)-(vii) of FOIA. The Freedom of Information Officer will notify by letter the person making the written request within 7 working days (after receipt of the request) of the reasons for the delay and the date by which the records will be made available or denied will be forthcoming. [5 ILCS 140/3(c)]

Section 3001.210 Types of Responses to Requests for Public Records

- a) The Freedom of Information Officer shall respond to a request for public information in writing, in one of three ways:
 - 1) Approve the request.
 - 2) Approve in part and deny in part.
 - 3) Deny the request.
- b) The response shall be signed by the Freedom of Information Officer.
- c) Upon approval of a request for public records, the Freedom of Information Officer shall either provide the materials immediately, give notice that materials shall be made available upon payment of reproduction costs, give notice of the time and place for inspection of records, or request that the requestor contact the Freedom of Information Officer to schedule a time and place for the inspection of records.
- d) Categorical requests considered by the Freedom of Information Officer to be unduly burdensome shall be denied pursuant to Section 3(f) of FOIA. Before making this determination, the Freedom of Information Officer shall provide an opportunity to the requestor to confer and reduce the request to manageable proportions. The Freedom of Information Officer shall consider a request to be unduly burdensome if the burden on the Office of the Board outweighs the public interest in the information. Repeated requests for the same public records by the same person shall be deemed unduly burdensome pursuant to Section 3(f) of FOIA.

PROCUREMENT POLICY BOARD

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- e) A denial of a request for public records shall be made in writing and shall state the reasons for the denial and the names and titles of the individuals responsible for the decision pursuant to Section 9(a) of FOIA. Denials of requests determined to be unduly burdensome shall also explain the extent to which compliance with the request would unduly burden the operations of the Office of the Board pursuant to Section 3(f) of FOIA. Each notice of denial shall inform the requestor of his/her right to appeal to the Executive Director [5 ILCS 140/9].
- f) Failure to respond to a written request within 7 working days after its receipt by the Office of the Board shall be considered by the requestor to be a denial of the request [5 ILCS 140/3(c)].

SUBPART D: PROCEDURES FOR APPEAL OF A DENIAL

Section 3001.300 Appeal of a Denial

- a) A requestor whose request has been denied by the Freedom of Information Officer may appeal the denial to the Executive Director pursuant to Section 10 of FOIA. The notice of appeal shall be made in writing and sent to:

Board Chair
Procurement Policy Board
108 Statehouse
Springfield IL 62706

- b) The notice of appeal shall include a copy of the original request, a copy of the denial received by the requestor and a statement of the reasons why the appeal should be granted. If the appeal is filed because the requestor did not receive a response to a written request for information, the notice of appeal shall state that this is the reason for the appeal.

Section 3001.310 Executive Director's Response to Appeal

- a) Upon receipt of the notice of appeal the Executive Director shall review the public record requested and shall determine whether such review is available for public inspection and copying. The Executive Director shall notify the person making the appeal of such determination within 7 working days after the notice of appeal is received, pursuant to Section 10(a) of FOIA.
- b) If the Executive Director determines the public record is exempt from public inspection the Executive Director shall notify the requestor in writing of the denial and the reasons for the denial and shall inform the requestor of his/her rights to judicial review under Section 11 of FOIA [5 ILCS 140/9(a)].

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PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Section 3001.APPENDIX A Fee Schedule for Duplication of Public Records

Type of Duplication	Per Copy Charge
Paper copy from paper original	\$.25
Paper copy from microfilm original	\$.50
Certification fee	\$1.00

Some records possessed by the Board are in book or pamphlet form. The charge for such materials shall be the cost of such materials incurred by the Board.

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PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

SUBPART E: PROCEDURES FOR PROVIDING PUBLIC RECORDS
TO REQUESTORS

Section 3001.400 Copies of Public Records

- Copies of public records shall be provided to the requestor only upon payment of any charges that are due except as provided in subsection (c) of this Section.
- Charges for the certification and copies of public records shall be assessed in accordance with the "Fee Schedule for Duplication of Public Records" (see Appendix A of this Part).
- Charges may be waived in any case where the *Freedom of Information Officer* determines that the waiver serves the public interest pursuant to Section 6(b) of FOIA. The Freedom of Information Officer will base this determination on the requestor's ability to pay the charges and whether the requestor's organization serves the citizens of Illinois as a whole.

Section 3001.410 Inspection of Records

- Records of the Board shall be available unless otherwise exempt under Section 7 of FOIA, during the hours of 8:30 a.m. through 5 p.m. Monday through Friday (except for State holidays) at 108 Statehouse, Springfield, Illinois 62706. Requestors must contact the Freedom of Information Officer to schedule an appointment to inspect requested records.
- An employee of the Board may be present throughout the inspection. A requestor will be prohibited from bringing bags, briefcases or other containers into the inspection room.
- Documents that the requestor wishes to have copied shall be segregated during the course of the inspection. All copying shall be done by Board employees.

Section 3001.420 General Materials Available from the Office of the Board

The following materials shall be made available by the Office of the Board without charge pursuant to Sections 4 and 5 of FOIA:

- A brief description of the organizational structure and budget of the Office of the Board.
- A brief description of the means for requesting information and public records.
- A list of types and categories of public records maintained by the Office of the Board.

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

1) Heading of the Part: General Policies2) Code Citation: 2 Ill Adm Code 30023) Section Numbers: Adopted Action:

3002.100 New

3002.200 New

3002.300 New

3002.400 New

3002.500 New

3002.600 New

3002.700 New

3002.800 New

3002.900 New

3002.1000 New

3002.1100 New

3002.1200 New

4) Statutory Authority: Illinois Procurement Code [30 ILCS 500]5) Effective Date of Rulemaking: June 1, 19996) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: February 5, 1999; 23 Ill Reg 148110) Has JCAR issued a Statement of Objections to these rules? No11) Differences between proposal and final version: None12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rulemaking: Operating rules for the Procurement Policy Board16) Information and questions regarding these adopted rules shall be directed

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

to:

Matt Brown, Senior Analyst
 Procurement Policy Board
 511 West Capitol, Suite 102
 Springfield, Illinois 62704
 217/785-3988

The full text of the adopted rule begins on the next page:

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE B: MISCELLANEOUS STATE AGENCIES
 CHAPTER 1X: PROCUREMENT POLICY BOARD

PART 3002
 GENERAL POLICIES

Section	
3002.100	Authority and Purpose
3002.200	Definitions
3002.300	Agenda
3002.400	Meetings of the Board
3002.500	Board Review
3002.600	Publication of Notices, Proposals and Action by the Board
3002.700	Comments from the Public
3002.800	Petition to the Board by Public
3002.900	Submission of Complaints
3002.1000	Obtaining Other Information
3002.1100	Coordination with State Agencies and the General Assembly
3002.1200	Coordination with the Joint Committee, Administrative Code Division and CPOs

AUTHORITY: Implementing and authorized by the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted at 23 Ill. Reg. ~~6895~~ 1 effective JUN 1 1999.

Section 3002.100 Authority and Purpose

The Board shall have the authority and responsibility to review, comment upon, and recommend, consistent with the Procurement Code, rules and practices governing the procurement, management, control, and disposal of supplies, services, professional and artistic services, construction, and real property and capital improvement leases procured by the State [30 ILCS 500/5-5].

Section 3002.200 Definitions

"Act" means the Illinois Administrative Procedure Act [5 ILCS 100].

"Administrative Code Division" means the unit of the Office of the Secretary of State Index Department that publishes the Illinois Administrative Code and the Illinois Register and with which rules are filed.

"Board" means the Procurement Policy Board.

"Certificate of Action" means a certificate issued by the Board that

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

states any action taken by the Board that creates or changes procurement policy.

"Code" means the Illinois Procurement Code [30 ILCS 500].

"Joint Committee" means the Joint Committee on Administrative Rules created by Section 5-90(a) of the Act.

"Rule" means each agency statement of general applicability that implements, applies, interprets or prescribes law or policy, and that implements the private rights of or procedures available to persons or entities outside the agency, but does not include statements concerning only the internal management of an agency and not affecting private rights or procedures available to persons or entities outside the agency, informal advisory rulings issued under Section 5-150 of the Act, intra-agency memoranda or the prescription of standardized forms [5 ILCS 100/1-70].

"Illinois Procurement Bulletin" or "Procurement Bulletin" means that publication enumerated in Article 15 of the Code.

"State Agency" means each type of entity enumerated in Section 1-15.100 of the Code.

Section 3002.300 Agenda

The agenda of meetings and hearings held by the Board will be set by the Board and will be made available to the public as well as published in the Procurement Bulletin.

Section 3002.400 Meetings of the Board

All hearings of the Board are open to the public. The Board will accept and consider written comments by members of the public prior to Board meetings, time permitting.

Section 3002.500 Board Review

The Board may conduct reviews of procurement policy requested by members of the public, State Agencies and the General Assembly. Upon receipt of a request to conduct a review, the Board will respond to the requestor within 10 business days as to the disposition of the request.

Section 3002.600 Publication of Notices, Proposals and Action by the Board

All notices, proposals and certificates of action issued by the Board shall be published in the Illinois Procurement Bulletin as provided for in Section 15-10 of the Code [30 ILCS 500/15-10].

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Section 3002.700 Comments from the Public

The Board will encourage members of the public to submit comments directly to the Board. In relation to problems with existing policy, the Board will encourage members of the public to petition directly to any agency involved for their consideration as well. This policy will not limit the Board from considering comments or problems not submitted to the agency first.

Section 3002.800 Petition to the Board by Public

Members of the public may petition the Board for adoption, modification or repeal of the rules of the Board as provided under Section 5-145 of the Act [5 ILCS 100/5-145]. The Board will consider such petitions and inform the petitioner of the disposition of the petition in writing. Such petitions must be in writing and must contain the following information:

- a) The names and addresses of the persons or groups presenting the petition;
- b) The specific rules of the Board that the petitioner believes should be modified or repealed or the specific language the petitioner believes should be adopted as a rule by the Board;
- c) A description of the effect of the rules or lack of rules on the persons or groups presenting the petition;
- d) The specific reasons the petitioner believes that the Board should take the rulemaking action; and
- e) Any additional facts or documentation necessary to explain and support the petition.

Section 3002.900 Submission of Complaints

Interested persons or groups may submit complaints to the Board. Complaints should be addressed to Board members or the Executive Director, Procurement Policy Board, 108 Statehouse, Springfield, Illinois 62706. Each complaint must include at a minimum:

- a) The names and addresses of the persons or groups presenting the complaint;
- b) The specific issue of the complaint;
- c) The specific reasons the complainant believes that the Board should take action; and
- d) Any additional facts or documentation necessary to explain and support the complaint.

Section 3002.1000 Obtaining Other Information

Other information about the operation and programs of the Procurement Policy Board may be obtained by addressing specific questions to the Executive Director, Procurement Policy Board, 108 Statehouse, Springfield, Illinois 62706.

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Section 3002.1100 Coordination with State Agencies and the General Assembly

State Agencies and the General Assembly are invited to address the Board with comments, concerns or suggestions about procurement policy. Written submission will be required for the Board to conduct an official review for the requestor. The Board will review the submission and respond within the timeframe established in Section 500 of this Part.

Section 3002.1200 Coordination with Joint Committee, Administrative Code Division and CPOs

When the Board proposes or is required to review rules, it will do so prior to or in conjunction with the Joint Committee, Administrative Code Division and CPO reviews in order to facilitate timely promulgation of the rules.

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

1) Heading of the Part: Rulemaking and Organization2) Code Citation: 2 Ill. Adm. Code 30003) Section Numbers: Adopted Action:

3000.100 New
3000.110 New
3000.120 New
3000.130 New
3000.140 New
3000.150 New
3000.200 New
3000.210 New
3000.220 New
3000.230 New
3000.240 New
3000.250 New
3000.260 New
3000.270 New
3000.280 New
3000.290 New
3000.APPENDIX A New

4) Statutory Authority: The Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500]5) Effective Date of Rulemaking: June 1, 19996) Does this rulemaking contain an automatic repeal date? No7) Does this rulemaking contain incorporations by reference? No8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.9) Notice of Proposal Published in Illinois Register: February 5, 1999, 23 Ill. Reg. 148710) Has JCAR issued a Statement of Objections to these rules? No11) Differences between proposal and final version:

Merged Section 3000.160 into 3000.150.

Amended table of contents accordingly.

12) Have all the changes agreed upon by the agency and JCAR been made as

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

indicated in the agreements issued by JCAR? Yes13) Will this rulemaking replace an emergency rule currently in effect? No14) Are there any amendments pending on this Part? No15) Summary and Purpose of Rulemaking: Operating Rules for the Procurement Policy Board16) Information and questions regarding these adopted rules shall be directed to:

Matt Brown, Senior Analyst
511 West Capitol, Suite 102
Springfield IL 62704
785-3988

The full text of the adopted rules begins on the next page:

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

TITLE 2: GOVERNMENTAL ORGANIZATION
 SUBTITLE E: MISCELLANEOUS STATE AGENCIES
 CHAPTER LX: PROCUREMENT POLICY BOARD

PART 3000

RULEMAKING AND ORGANIZATION

SUBPART A: RULEMAKING

Section

3000.100 Adoption and Filing

3000.110 Development of Rules

3000.120 Consideration by Board

3000.130 Public Comments

3000.140 Special Hearing

3000.150 Adoption

SUBPART B: ORGANIZATION

Section

3000.200 Composition of Board

3000.210 Officers

3000.220 Personnel Committee

3000.230 Appointment of Executive Director

3000.240 Duties of Executive Director

3000.250 Duties of Staff

3000.260 Organization

3000.270 Personnel Chart

3000.280 Availability

3000.290 Office Location

APPENDIX A Personnel Organization Chart

AUTHORITY: Implementing and authorized by the Illinois Administrative Procedure Act [5 ILCS 100] and the Illinois Procurement Code [30 ILCS 500].

SOURCE: Adopted ^{at} 23 Ill. Reg. 6901 effective

JUN 1 1996

SUBPART A: RULEMAKING

Section 3000.100 Adoption and Filing

The Procurement Policy Board will follow the rulemaking procedure established by the Illinois Administrative Procedure Act [5 ILCS 100] in the adoption and filing of its rules.

Section 3000.110 Development of Rules

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Rules of the Procurement Policy Board are developed by the Board members or by the Board staff under the specific direction of the Board.

Section 3000.120 Consideration by Board

Draft rules or amendments to rules are placed on the Board agenda for consideration by the Board. At the hearing, the Board votes on whether or not to formally propose the rules by publication in the Illinois Register. The Board may make any desired changes in the draft rules, direct the staff to change the draft rules, or postpone the formal proposal of the rules.

Section 3000.130 Public Comments

All public or agency comments submitted on proposed Board rules are presented to the Board for consideration. The staff of the Board may recommend changes in the proposed rules based on comments received.

Section 3000.140 Special Hearing

The Board may hold a special hearing for the purpose of receiving comments on the proposed rules, and may appoint a member of the staff to serve as a hearing officer to conduct such a hearing. Views presented at such a hearing will be presented to the Board and will be considered. The staff of the Board may recommend changes in the proposed rules based on comments received at such a hearing.

Section 3000.150 Adoption

Following expiration of the required 45 day notice period, the Board places the proposed rules on its agenda for consideration of any recommended changes, public and agency comments, and whether or not to adopt the rules. Adoption of rules is by vote of the Board and filing of the rules with the Secretary of State.

SUBPART B: ORGANIZATION

Section 3000.200 Composition of Board

The Procurement Policy Board consists of five members, none of which may be members of the Illinois General Assembly. Members are appointed by the leadership of the General Assembly and the Governor as provided in Section 5-5 of the Procurement Code [30 ILCS 500/5-5].

Section 3000.210 Officers

The Chair of the Board is an appointee of the Governor as provided for in Section 5-5 of the Procurement Code [30 ILCS 500/5-5].

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Section 3000.220 Personnel Committee

The members of the Board collectively serve as the Personnel Committee of the Board and review and approve decisions by the Executive Director concerning the employment and compensation of staff of the Board.

Section 3000.230 Appointment of Executive Director

As provided in Section 5-5 of the Procurement Code [30 ILCS 500/5-5], the members of the Board appoint the Executive Director of the Procurement Policy Board.

Section 3000.240 Duties of Executive Director

The Executive Director serves as the director of the staff of the Board and is responsible for the employment and setting of the compensation of necessary professional, technical and secretarial staff as directed by the Board.

Section 3000.250 Duties of Staff

The duties and organization of the staff of the Board are established by the Executive Director as directed by the Board.

Section 3000.260 Organization

The Board staff functions as a single unit under the Executive Director as directed by the Board.

Section 3000.270 Personnel Chart

The specific personnel positions authorized by the Board and their organizational and supervisory relationships are presented in the Personnel Organization Chart shown in Appendix A.

Section 3000.280 Availability

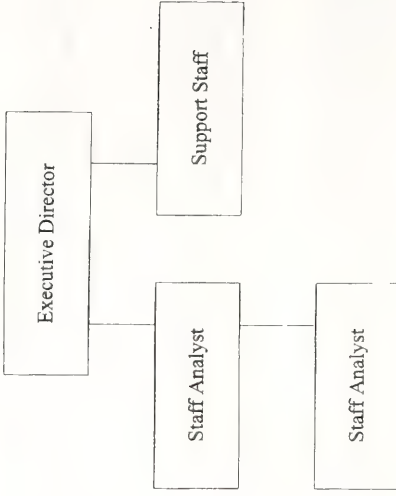
A description of the specific responsibilities and duties of each of the personnel positions of the Board staff is maintained in the Office of the Board and is available for public inspection.

Section 3000.290 Office Location

The Office of the Board is located at 511 West Capitol, Suite 102, Springfield, Illinois 62704.

PROCUREMENT POLICY BOARD

NOTICE OF ADOPTED RULES

Section 3000. APPENDIX A Personnel Organization Chart

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Health Care Facility and Program Initial Certification Fee Code

- 2) Code Citation: 77 Ill. Adm. Code 230

- 3) Section Numbers:
 230.100 Adopted Action:
 230.200 New Section
 230.300 New Section
 230.400 New Section

- 4) Statutory Authority: Section 55.82 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.82]

- 5) Effective date of rules: May 25, 1999

- 6) Does this rulemaking contain an automatic repeal date? No

- 7) Does this rulemaking contain any incorporations by reference? No

- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

- 9) Notice of Proposal was Published in Illinois Register: September 4, 1998 - 22 Ill. Reg. 15946

- 10) Has JCAR issued a Statement of Objections to these rules? No

- 11) Differences between proposal and final version: The following changes were made in response to comments received during the first Notice or public comment period:

1. In Section 230.100, the following definition was added: "Inspection or survey - the examination, by the Department, of compliance with requirements for participation in the Medicare or Medicaid program."
2. Section 230.200 was amended by changing "shall" to "may" in the first line; by changing "program" to "program"; and by adding a second sentence: "The Department's decision to charge a fee will be based on whether the INSPECTION AND SURVEY AND PROCESSING COSTS are REIMBURSED TO THE STATE BY THE FEDERAL GOVERNMENT."
3. In Section 320.200(d), "The fee" was changed to "If the fee is charged, it".
4. In Section 230.200(e), the second "of" was deleted and "if a fee is to be changed and, if so," was added.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

5. The word "calendar" was added after "30" in Sections 230.200(e) and (f) and 230.300(b).

The following changes were made in response to comments and suggestions of the JCAR:

1. In Section 230.200(e), "if a fee" was changed to "of any fee"; "is" and "and, if so, the fee" were deleted.

2. A new Section 230.200(h) was added:

"h) If unforeseen circumstances affecting the facility or program occur after the fee has been paid, the Department shall postpone the inspection and shall not charge an additional fee. Such circumstances may include, but not be limited to, a natural disaster or loss of essential services."

In addition, various typographical, grammatical and form changes were made in response to the comments from JCAR.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

- 13) Will these rules replace emergency rules currently in effect? No

- 14) Are there any other amendments pending on this Part? No

- 15) Summary and purpose of the rules: This rulemaking implements Section 55.82 of the Civil Administrative Code of Illinois (210 ILCS 2310/55.82), which permits the Department to charge a fee for initial certification (Medicare and Medicaid) surveys. Certification is a voluntary federal program, and the federal government reimburses the Department for the cost of conducting initial certification surveys. However, for the past several years, federal reimbursement has not occurred, and the Department has not conducted the surveys, without which a health care facility or program cannot participate in Medicare or Medicaid. The rules establish a process for determining a fee for initial certification surveys. If federal reimbursement is provided, the fee will be reduced accordingly. If the applicant declines to pay the fee, the survey will be conducted if federal reimbursement resumes.

- 16) Information and questions regarding these adopted rules shall be directed to:

Ms. Gail DeVito
 Division of Legal Services
 Department of Public Health
 535 West Jefferson, Fifth Floor

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

Springfield, Illinois 62761
(217)782-2043
(rules@idph.state.il.us).

The full text of the adopted Rules begins on the next page:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 230

HEALTH CARE FACILITY AND PROGRAM INITIAL CERTIFICATION FEE CODE

Section

230.100 Definitions

230.200 Costs and Fees

230.300 Application Processing

230.400 Health Care Facility and Program Survey Fund

AUTHORITY: Implementing and authorized by Section 55.82 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.82].

SOURCE: Adopted at 23 Ill. Reg. 6907, effective MAY 25 1999.

Section 230.100 Definitions

The following terms shall have the meanings ascribed to them here whenever the term is used in this Part.

Act - the Civil Administrative Code of Illinois.

Applicant - the health care facility or program applying for initial Medicare or Medicaid certification.

Department - the Illinois Department of Public Health.

Health care facility or program - an entity applying to be certified to participate in the Medicare program under Title XVIII of the federal Social Security Act or in the Medicaid program under Title XIX of the federal Social Security Act. (Section 55.82 of the Civil Administrative Code of Illinois [20 ILCS 2310/55.82])

Inspection or survey - the examination, by the Department, of compliance with requirements for participation in the Medicare or Medicaid program.

Section 230.200 Costs and Fees

- a) The Department may charge a fee to any health care facility or program applying to be certified to participate in the Medicare program or in the Medicaid program to cover the costs associated with the application, inspection and survey of the facility or program and

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

processing of the application, including personnel costs. The Department's decision to charge a fee will be based on whether the inspection and survey and processing costs are reimbursed to the State by the federal government. (Section 55.82 of the Act)

b) The costs associated with conducting health care facility or program initial certification inspections shall be calculated based on the following:

- 1) Number of hours to conduct survey for facility or program type, i.e., long-term care facility, home health agency, rural health clinic, end-stage renal dialysis center, hospice program, hospital, physical or occupational therapist in independent practice, occupational therapy, speech therapy, outpatient physical therapy, ambulatory surgical treatment center, portable x-ray unit;
- 2) Personnel costs (i.e., average salaries of surveyors and retirement, insurance, and social security benefits);
- 3) Travel costs;
- 4) Processing of the application. (Section 55.82 of the Act)
- c) The fee charged to a health care facility or program for an initial certification inspection shall be determined by the actual average cost for conducting surveys for that type of program or facility during the previous 12 months.
- d) If a fee is charged, it shall be reduced by the amount reimbursed to the State by the federal government for surveys for that type of program or facility during the previous quarter of the federal fiscal year.
- e) The Department shall notify the applicant of the amount of any fee to be charged within 30 calendar days after receiving a completed application.
- f) The fee shall be paid by the facility or program before the application is processed. (Section 55.82 of the Civil Administrative Code of Illinois) If the applicant does not submit the fee to the Department within 30 calendar days after receipt of the notice, the applicant shall be considered to have declined the certification inspection.
- g) The Department shall not refund initial certification inspection fees.
- h) If unforeseen circumstances affecting the facility or program occur after the fee has been paid, the Department shall postpone the inspection and shall not charge an additional fee. Such circumstances may include, but not be limited to, a natural disaster or a loss of essential services.

Section 230.300 Application Processing

- a) An application for initial Medicare or Medicaid certification shall be submitted to the Department in accordance with instructions from the Health Care Financing Administration (HCFA), if required. Information requested may include, but is not limited to:

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF ADOPTED RULES

- 1) Applicant information, including whether the applicant is an individual or organization, Board Certification, and professional licensure;
- 2) Location information, including billing address and location of patient records;
- 3) Exclusion/sanction information;
- 4) Prior practice information;
- 5) Managing/directing employee information;
- 6) Ownership information;
- 7) Chain organization information;
- 8) Parent/joint venture/subsidiary information;
- 9) Contractor information;
- 10) Electronic submission information.
- b) The Department shall process the application and conduct an initial certification inspection within 30 calendar days after receipt of the initial certification inspection fee.

Section 230.400 Health Care Facility and Program Survey Fund

The fees received by the Department under this Part shall be deposited into the Health Care Facility and Program Survey Fund in the State Treasury. (Section 55.82 of the Act)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Hospice Programs
- 2) Code Citation: 77 Ill. Adm. Code 280
- 3) Section Numbers:
280.4010 Emergency Action:
280.4015 Amendments
New Section
- 4) Statutory Authority: Implementing and authorized by the Hospice Program Licensing Act [210 ILCS 60]
- 5) Effective Date of Emergency Amendments: June 1, 1999
- 6) If these Emergency Amendments are to expire before the end of the 150-day period, please specify the date on which they are to expire: These Emergency Amendments will not expire before the end of the 150-day period.
- 7) Date filed in Agency's Principal Office: June 1, 1999
- 8) A copy of the Emergency Amendments, including any material incorporated by reference, is on file in the Department's principal office and is available for public inspection.
- 9) Reason for Emergency: The Department's rules governing licensure of hospice residences have been in place since June 1, 1998, and the experience of the past year has indicated that changes in the application process are necessary. Several potential providers have indicated to the Department that investors are hesitant to commit funds to a project if there is no guarantee of licensure when the project is completed. The Hospice Program Licensing Act limits participation in the program to 12 facilities. Since there is no statutory requirement for a Certificate of Need from the Health Facilities Planning Board, applicants are put in the position of constructing a hospice residence without any assurance that one of the 12 slots will be available when the application process is completed. Providers have requested the Department to revise the rules to provide for issuance of a "license certificate", based on a needs assessment, cost analysis, and approval of the Governing Body, which will be valid for one year. The license certificate will illustrate to investors that a licensure slot is available to the holder of the certificate.
- 10) A Complete Description of the Subject and Issues Involved:
The hospice residence licensure program is currently at a standstill. The Department believes that the above-described issue is a legitimate concern and has revised the rules accordingly. The license certificate is not a guarantee of licensure but is an indication that the applicant is expected to achieve licensure.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

In Section 280.4010 (Licensure of Hospice Residences), license application requirements have been amended to include requirements for a needs assessment and cost analysis and documentation of approval by the Governing Body of the applying licensed hospice program to proceed with the application, as well as a commitment to expend the necessary funds and the assignment of the responsibility for moving forward with the application/implementation. The Department will award "license certificates", valid for one year, to applicants that meet the requirements of Section 280.4015, in specified geographic areas and in the order in which applications are received. License certificates may be renewed and must be converted to a full license by the end of the second year.

A new Section 280.4015 is being added (Hospice Residence Application and Approval Review Criteria). Applications received will be deemed complete by the Department and may not be amended or supplemented. Points will be awarded based on completeness of the application; documentation of a completed needs assessment and cost analysis; documentation of approval of the hospice's Governing Body; and whether the proposed residence meets statutory definition.

- 11) Are there any proposed amendments to this Part pending? No
- 12) Statement of Statewide Policy Objectives: These amendments will not require any new expenditures by units of local government.
- 13) Information and questions regarding these Emergency Amendments shall be directed to:

Gail M. DeVito
Division of Legal Services
Illinois Department of Public Health
535 West Jefferson, Fifth Floor
Springfield, Illinois 62761
(217) 782-2043
e-mail: rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITAL AND AMBULATORY CARE FACILITIES

PART 280
HOSPICE PROGRAMS

SUBPART A: LICENSURE

Section	Definitions
280.1000	Incorporated and Referenced Materials
280.1010	Licensure Procedures
280.1020	Statement of Ownership
280.1030	Inspections and Investigations
280.1040	Notice of Violation and Plan of Correction
280.1050	Adverse Licensure Actions
280.1060	

SUBPART B: HOSPICE SERVICES

Section	Hospice Service Plan
280.2000	Hospice Services
280.2010	Administrator
280.2020	Policies and Procedures
280.2030	Personnel Policies
280.2040	Initial Health Evaluation for Employees
280.2045	Patient Rights
280.2050	Clinical Records
280.2060	Medical Director and Physician Services
280.2070	Hospice Program Care
280.2080	Quality Assurance Plan/Utilization Review
280.2090	Research or Experimental Programs
280.3000	

SUBPART C: INPATIENT CARE

Section	Inpatient Care Facilities
280.4000	Licensure of Hospice Residences
280.4010	
280.4015	Hospice Residence Application and Approval Review Criteria
280.4020	Hospice Residence Admission and Discharge
280.4030	Hospice Residence Nursing Care and Assistance in Activities of Daily Living
280.4040	Hospice Residence Operational Requirements

AUTHORITY: Implementing and authorized by the Hospice Program Licensing Act

DEPARTMENT OF PUBLIC HEALTH
NOTICE OF EMERGENCY AMENDMENTS

[210 ILCS 60].

SOURCE: Adopted at 2 Ill. Reg. 31, P. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, P. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, P. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, P. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, P. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 11 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 467, effective January 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 10003, effective July 15, 1996; Part repealed and new Part adopted at 22 Ill. Reg. 10625, effective June 1, 1998; emergency amendment at 23 Ill. Reg. **6913**, effective June 1, 1999, for a maximum of 150 days.

SUBPART C: INPATIENT CARE

Section 280.4010 Licensure of Hospice Residences
EMERGENCY

- a) *The number of licensed hospice residences shall not exceed 12.* (Section 9(c)(9) of the Act)
- b) An applicant shall submit a hospice residence licensure application on forms provided by the Department. The application shall be made under oath and shall contain the following information:
 - 1) All information required by Section 280.1020(b)(1)-(16) of this Part;
 - 2) For buildings owned by the full hospice, the name, address, telephone number, occupation, and the percent of direct or indirect financial interest of any person having a direct or indirect interest of five percent or more in the legal entity that owns the building, or proposed building. For leased buildings, the name, address, and telephone number; and
 - 3) Proposed staffing;
 - 4) Documentation of a needs assessment and cost analysis of the establishment, licensing and maintenance of the proposed facility; and
 - 5) Documentation of approval by the Governing Body of the applying licensed hospice program to proceed with application; commitment to expend necessary funds for application and completion of the project; and assignment of responsibility for moving forward with the application/implementation.
- c) An application for licensure as a hospice residence shall be accompanied by a fee of \$500.

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- d) Upon receipt and review of a complete application for licensure, the Department shall award license certificates to applicants who meet the minimum number of review points required in Section 280.1415 of this Part, conduct an inspection to determine compliance with the Act--and this Part. e)--licenses will be issued to applicants in the following geographic areas, in the order in which completed applications are received by the Department:

- 1) Four hospice residences located in counties with a population of 700,000 or more;
- 2) Four hospice residences located in counties with a population of 200,000 or less than 700,000; and
- 3) Four hospice residences located in counties with a population of less than 200,000.

- e) A license certificate shall be valid for one year from the date of issuance and may be renewed by the Department for an additional year, for a total of two years. Renewal of the license certificate for a second year will be based on, but not limited to, information submitted that documents the obligation of funds for the applicant residence project by the hospice residence organization; letting of contracts for construction, purchase or renovation of physical space to be licensed as a hospice residence; architectural or construction certifications as to the percentage of completion of the hospice residence project. By the end of the second year, any license certificate not converted to a full license shall be null and void.

- f) The Department shall issue available license certificates to the next complete, geographically appropriate applicant, in the order received by the Department.

- g) Upon receipt of the completed application and notification by the hospice residence applicant that the facility is complete and ready for licensure, the Department shall conduct an inspection to determine compliance with the Act and this Part.

- h) If the hospice residence is found to be in substantial compliance with the Act and this Part, the Department shall issue a license that expires on the same date as the full or volunteer hospice program license.

- 1) The license shall not be transferable; it is issued to the licensee and for the specific location; and
- 2) The license shall become automatically void and shall be returned to the Department if a hospice residence's full or volunteer license is revoked, nonrenewed, relinquished, denied, forfeited, or suspended.

- i) An application for license renewal shall be filed with the Department 60 days prior to the expiration of the license, on forms provided by the Department.

- 1) The renewal application shall comply with the requirements of subsections (b) and (c) of this Section.
- 2) A letter from the Office of the State Fire Marshal shall accompany the application certifying that the hospice residence

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

- physical plant meets the provisions of Section 280.4060 of this Part.
- 3) Pursuant to Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65], licensees who are individuals are subject to denial of renewal of licensure if the individual is more than 30 days delinquent in complying with a child support order.

- 4) Upon receipt and review of a complete application for license renewal, the Department shall conduct a survey. The Department shall renew the license in accordance with subsection (bf) of this Section.

(Source: Amended by emergency rulemaking at 23 Ill. Reg. **6913** =, effective June 1, 1999, for a maximum of 150 days)

Section 280.4015 Hospice Residence Application and Approval Review CriteriaEMERGENCY

- a) Beginning on June 1, 1999, applications received for a hospice residence license shall be deemed complete upon receipt by the Department. Due to the limited number of available licensees, applicants will not be allowed to amend the application or provide additional supporting documentation during the review process. The application as submitted to the Department shall serve as the basis for all standard and prioritization evaluation.

- b) The Department will review applications and award license certificates to applicants as applications are received.

- c) A minimum of 40 points is required for an applicant to be eligible for issuance of a license certificate. Review points will be awarded as follows:

- 1) Proposed Residence Location/Facility - 10 points
The proposal shall be evaluated for compliance with the following definition: "Hospice Residence" means a home, apartment building, or similar building providing living quarters:

- A) That is owned or operated by a person licensed to operate as a full hospice; and
- B) At which hospice services are provided to facility residents.

- A building that is licensed under the Hospital Licensing Act or the Nursing Home Care Act is not a hospice residence. [Section 3(a-1) of the Act]

- 2) Application Completeness - 10 points
All required information for application shall be contained in the application submission, including, but not limited to, appropriate signatures, attestations, oaths, dates and fees.

- 3) Documentation of completed Needs Assessment and Cost Analysis - 10 points
The application shall document that an assessment of the need for

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

the hospice residence services and an analysis of the costs involved in the establishment, licensing and maintenance of such a facility have been conducted and reviewed for the proposed application. The documentation submitted shall demonstrate the criteria used and results of the assessments.

- 4) Documentation of approval for application by the applicant hospice's Governing Body - 10 points

The application shall document that the proposed residence application has been thoroughly reviewed, discussed and approved by the Governing Body of the licensed hospice program applying for the residence license. "Approval" is defined as an official motion by the Board to proceed with the application; commitment by the organization to expend the necessary funds for application and completion of the project; and assignment of responsibility for moving forward with the application and implementation of the project.

(Source: Added by emergency rulemaking at 23 Ill. Reg. 6919-5 effective June 1, 1999, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLYSTATEMENT OF OBJECTION TO
EMERGENCY RULEMAKING

ILLINOIS FARM DEVELOPMENT AUTHORITY

Heading of the Part: Illinois Farm Development Authority

Code Citation: 8 Ill Adm Code 1400

Section Numbers: 1400.145

Date Originally Published in the Illinois Register: 4/16/99

23 Ill Reg 4464

At its meeting on May 18, 1999, the Joint Committee on Administrative Rules objected to the emergency rules of the Illinois Farm Development Authority entitled Illinois Farm Development Authority (8 Ill Adm Code 1400), because the Authority implemented this program before it adopted the emergency rule and without any clear statutory authority for the interest buy down program. Additionally, the Authority initiated this program, which is to be supported through General Revenue Fund appropriations, before any such funds were appropriated to the agency for this purpose. While the program may be laudatory, the Authority's implementation of the program has not been in strict compliance with the Illinois Administrative Procedure Act and the Illinois Farm Development Act.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

ILLINOIS REGISTER

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY
STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING
DEPARTMENT OF PUBLIC AID

Heading of the Part: Hospital Services

Code Citation: 89 Ill Adm Code 148

Section Numbers: 148.297

Date Originally Published in the Illinois Register: 1/22/99

23 Ill Reg 847

At its meeting on May 18, 1999, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that DPA make a more conscientious effort to timely adopt rule amendments to avoid implementing policy not in rule.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

ILLINOIS REGISTER

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY
STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING
DEPARTMENT OF STATE POLICE

Heading of the Part: Law Enforcement Agencies Data System (LEADS)

Code Citation: 20 Ill Adm Code 1240

Section Numbers: 1240.10 1240.20 1240.30 1240.40 1240.50
1240.60 1240.70 1240.80 1240.90 1240.100
1240.110

Date Originally Published in the Illinois Register: 12/18/98

22 Ill Reg 21835

At its meeting on May 18, 1999, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommends that the Department promulgate administrative hearing rules, pursuant to Article 10 of the IAPA, for the conduct of its appeal hearings related to FOID application denials, denial or revocation of LEADS certification, denial of LEADS access to a local authority, and any other contested case/appeals issues in which the Department may be involved.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 18, 1999 through May 24, 1999 and have been scheduled for review by the Committee at its June 22, 1999 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rule should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Start Of First Notice	JCAR Meeting
7/1/99	4/2/99 23 111 Reg 3931	6/22/99
Agency and Rule	Secretary of State, Literacy Grant Program (23 111 Adm Code 3040)	
7/1/99	4/2/99 23 111 Reg 3904	6/22/99
Department of Natural Resources, Dog Training on Department-Owned or -Managed Sites (17 111 Adm Code 950)		
7/1/99	4/2/99 23 111 Reg 3899	6/22/99
Department of Natural Resources, Disposition of Deer Accidentally Killed by a Motor Vehicle or Other Non-Hunting Methods (17 111 Adm Code 750)		
7/1/99	4/2/99 23 111 Reg 3910	6/22/99
Department of Natural Resources, Open Space Lands Acquisition and Development Grant Program (17 111 Adm Code 3025)		
7/2/99	9/25/98 22 111 Reg 16783	6/22/99
Department of Human Services, Role of Residential Educational Facilities Operated by the Illinois Department of Human Services (89 111 Adm Code 750)		
7/2/99	9/25/98 22 111 Reg 16722	6/22/99
Department of Human Services, Definition of Terms (89 111 Adm Code 751)		
7/2/99	9/25/98 22 111 Reg 16700	6/22/99
Department of Human Services, Admission, Suspension, Expulsion and Discharge Procedures (89 111 Adm Code 755)		
7/2/99	9/25/98 22 111 Reg 16779	6/22/99
Department of Human Services, Repeal of Responsibility for Special Education (89 111 Adm Code 760)		

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/2/99	9/25/98 22 111 Reg 16848	6/22/99
Department of Human Services, The Establishment and Administration of Special Education (89 111 Adm Code 765)		
7/2/99	9/25/98 22 111 Reg 16821	6/22/99
Department of Human Services, Repeal of Special Education Instructional Program (89 111 Adm Code 770)		
7/2/99	9/25/98 22 111 Reg 16831	6/22/99
Department of Human Services, Repeal of Special Education Related Services (89 111 Adm Code 775)		
7/2/99	9/25/98 22 111 Reg 16869	6/22/99
Department of Human Services, Repeal of Vocational Programs (89 111 Adm Code 780)		
7/2/99	9/25/98 22 111 Reg 16732	6/22/99
Department of Human Services, Repeal of Home and Hospital Programs (89 111 Adm Code 785)		
7/2/99	9/25/98 22 111 Reg 16841	6/22/99
Department of Human Services, Repeal of State-Operated or Private Programs (89 111 Adm Code 790)		
7/2/99	9/25/98 22 111 Reg 16735	6/22/99
Department of Human Services, Identification, Evaluation, and Placement of Exceptional Children (89 111 Adm Code 795)		
7/2/99	9/25/98 22 111 Reg 16749	6/22/99
Department of Human Services, Repeal of Impartial Due Process Hearing (89 111 Adm Code 800)		
7/2/99	9/25/98 22 111 Reg 16844	6/22/99
Department of Human Services, Repeal of Surrogate Parents (89 111 Adm Code 805)		
7/2/99	9/25/98 22 111 Reg 16826	6/22/99
Department of Human Services, Repeal of Special Education Personnel (89 111 Adm Code 810)		
7/2/99	9/25/98 22 111 Reg 16837	6/22/99
Department of Human Services, Special Transportation (89 111 Adm Code 815)		

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

7/2/99	Department of Human Services, Repeal of Evaluation and Coordination of Special Education (89 Ill Adm Code 820)	9/25/98 22 Ill Reg 16727	6/22/99
7/2/99	Department of Human Services, Repeal of Definition of Terms (89 Ill Adm Code 825)	9/25/98 22 Ill Reg 16715	6/22/99
7/2/99	Department of Human Services, Rules of Conduct (89 Ill Adm Code 827)	9/25/98 22 Ill Reg 16792	6/22/99
7/2/99	Department of Human Services, Impartial Due Process Hearing (89 Ill Adm Code 828)	9/25/98 22 Ill Reg 16754	6/22/99
7/2/99	Department of Human Services, Sex Equity (89 Ill Adm Code 829)	9/25/98 22 Ill Reg 16809	6/22/99
7/2/99	Department of Human Services, Non-Academic Programs and Policies (89 Ill Adm Code 830)	9/25/98 22 Ill Reg 16761	6/22/99
7/2/99	Department of Human Services, Therkelsen/Hansen College Loan Fund (89 Ill Adm Code 835)	9/25/98 22 Ill Reg 16863	6/22/99
7/4/99	Department of Transportation, Inspection Procedures for Special Education School Buses (92 Ill Adm Code 445)	4/2/99 23 Ill Reg 3933	6/22/99
7/4/99	Department of Agriculture, Land Application Authorization Program (8 Ill Adm Code 258)	6/26/98 22 Ill Reg 10927	6/22/99
7/4/99	Department of Natural Resources, Sport Fishing Regulations for the Waters of Illinois (17 Ill Adm Code 810)	4/2/99 23 Ill Reg 3918	6/22/99

99-159

BROADER URBAN INVOLVEMENT AND
LEADERSHIP DEVELOPMENT DAY (Revised)

WHEREAS, Broader Urban Involvement and Leadership Development is a not-for-profit organization which works to reduce gang involvement and violence; and

WHEREAS, since 1969, B.U.I.L.D. has worked in the streets and schools to provide constructive alternatives to gangs emphasizing education and jobs; and

WHEREAS, B.U.I.L.D. has worked with 76,000 young people and over 100 schools during the past 30 years in helping thousands to leave gangs and develop productive, happy lives; and

WHEREAS, 2,258 youth were involved in programs last year which offer alternatives to the intimidation and violence of gangs; and

WHEREAS, 3,253 adults participated in B.U.I.L.D. gang awareness workshops and presentations last year which provide information about gangs and B.U.I.L.D.'s solutions to the problems; and

WHEREAS, at its 30th anniversary celebration, B.U.I.L.D. is honoring Michael D. O'Halleran, President and Chief Operating Officer of Aon Group, Inc. for his dedication and service to the community;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim June 9, 1999, as **BROADER URBAN INVOLVEMENT AND LEADERSHIP DEVELOPMENT DAY** in Illinois.

Issued by the Governor April 20, 1999.

Filed by the Secretary of State May 17, 1999.

99-212

FLORENCE WHITE DAY

WHEREAS, Florence White has been a part of the education community for 47 years as a principal and director; and

WHEREAS, Florence White was twice the president of Alpha Zeta of Delta Kappa Gamma society of teachers and also a past president of the Macon County and Lakeview teachers association; and

WHEREAS, Florence White was instrumental in reactivating the dormant Macon County Historical Society and signed a personal note for the purchase of the old North Fork Cumberland Presbyterian Church when it was in danger of being razed; and

WHEREAS, Florence White will be honored on Thursday, May 13, 1999, with a tribute dinner; and

WHEREAS, Florence White is a pillar of Macon County and an inspiration and role model to all those who meet her;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 13, 1999, as **FLORENCE WHITE DAY** in Illinois.

Issued by the Governor May 7, 1999.

Filed by the Secretary of State May 17, 1999.

99-213

ENGLEWOOD BOYS AND GIRLS CLUB EMPLOYER/
EMPLOYMENT OPPORTUNITY CONFERENCE DAY

WHEREAS, the Englewood Boys and Girls Club Youthnet Program is a partnership

with the Chicago Public Schools and the Chicago Police Department; and
 WHEREAS, the Englewood Boys and Girls Club Youthnet Program offers innovative and progressive programs which include the Keystone Club, Role Model Mentoring Program, Youth Peace and the 7th District Chicago Police Department Youth Forum; and

WHEREAS, the Englewood Boys and Girls Club Youthnet Program is presenting their 2nd Annual Employer/Employment Opportunity Conference on Friday, May 21; and

WHEREAS, the Englewood Boys and Girls Club Youthnet Program's 2nd Annual Employer/Employment Opportunity Conference is expected to draw more than 1,500 students and community residents, more than 50 corporations and numerous representatives from Illinois health facilities, governmental agencies and nonprofit organizations;

THEREFORE, I, George Ryan, Governor of the State of Illinois, proclaim May 21, 1999, as **ENGLEWOOD BOYS AND GIRLS CLUB EMPLOYER/EMPLOYMENT OPPORTUNITY CONFERENCE DAY** in Illinois.

Issued by the Governor May 11, 1999.

Filed by the Secretary of State May 17, 1999.

99-214

SS. CONSTANTINE AND HELEN GREEK ORTHODOX CHURCH DAYS

WHEREAS, Ss. Constantine and Helen Greek Orthodox Church, located in Palos Hills, is celebrating its 90th anniversary May 21-23, 1999;

WHEREAS, the pastor, Father Byron Stylianos Papanikolaou, announces on the Feastday of Ss. Constantine and Helen Church that Vespers Service will be officiated by His Eminence Metropolitan Iakovos of Krinis and priests from other orthodox churches from the Chicago area; and

WHEREAS, the Church has several spiritual organizations including Bible Study, Choir, Sunday School and Hospital Visitation. Other organizations include the Greek Orthodox Youth Association, Greek Ladies Society and athletic groups; and

WHEREAS, members of the Ss. Constantine and Helen Orthodox Church do charitable work and promote the rich Greek heritage and culture; and

WHEREAS, Father Nicholas W. Jonas, Assistant Pastor; Peter Lagen, President of Parish Council; and Betty Kourasis, Principal of the full time school are to be commended for their commitment and dedication to the parish and school; and
 WHEREAS, the Chairpersons of 90th Committee, Ted and Pat Boundas, announce a Gata Dinner Celebration will take place at the Odyssey Country Club, Tinley Park, May 22, 1999;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim May 22-23, 1999, as **SS. CONSTANTINE AND HELEN GREEK ORTHODOX CHURCH DAYS** in Illinois.

Issued by the Governor May 11, 1999.

Filed by the Secretary of State May 17, 1999.

99-215

TRAILS DAY

WHEREAS, trails are a valuable community resource providing recreational benefits to residents and are an important contributor to the region's economic development; and

WHEREAS, trails are an integral part of the Illinois transportation system; and

WHEREAS, trails improve the quality of life for residents and attract tourists and visitors; and

WHEREAS, nature trails offer an opportunity for all Illinoisans to enjoy the natural heritage of our state and to experience nature firsthand with the added benefit of improving our physical fitness;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim June 5, 1999, as **TRAILS DAY** in Illinois.

Issued by the Governor May 11, 1999.

Filed by the Secretary of State May 17, 1999.

99-216

H. ARTHUR GRUNDKE DAY

WHEREAS, Art Grundke is a lifelong resident of the State of Illinois; and
 WHEREAS, Art Grundke has devoted 37 years of his life to the service of public education in the State of Illinois as a teacher and principal at the

LaGrange Highlands Middle School, LaGrange, Illinois; and
 WHEREAS, Art Grundke is a faithful alumnus of the University of Illinois and a lifelong Illini fan, in both good times and bad; and

WHEREAS, Art Grundke is an individual of the highest personal and public integrity, a devoted husband and father, worthy of recognition across the State of Illinois as an exceptional citizen of the state, a superb contributor to the excellence of public education in Illinois and is dedicated to improving the lives of children for several generations in the State of Illinois;

THEREFORE, I, George H. Ryan, Governor of the State of Illinois, proclaim June 14, 1999, as **H. ARTHUR GRUNDKE DAY** in Illinois.

Issued by the Governor May 12, 1999.

Filed by the Secretary of State May 17, 1999.

Rules acted upon during the calendar quarter from Issue 17 through Issue 29 are listed in the Issues Index by Title number, Part number and issue number. For example, 50 Ill. Adm. Code 2500 published in Issue 1 will be listed as 50-2500.1. The letter "R" designates a rule that is being repealed. Inquiries about the Issues Index may be directed to the Administrative Code Division at 217-782-4414 or jmalta@ccgate.sos.state.il.us (Internet address).

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